

## GENERAL TERMS and CONDITIONS for REPAIR WORKS

Effective as of November 2020

### Article 1

#### Definitions

1.1 *Agreement*: all agreements regarding repair works and/or sale and delivery of spare parts including these General Conditions between the Company and a Client as well as all other instructions that the Client issues to the Company and all associated actions including legal acts;

1.2 *Article*: an article in these General Conditions;

1.3 *Client*: every natural or legal person with whom the Company enters into or wishes to enter into an Agreement, who buys or purchases products or services from the Company, and every other party who places an order with the Company and/or enters into negotiations with the Company;

1.4 *Company*: Van Eck Trailers B.V.;

1.5 *General Conditions*: these general terms and conditions for repair works and/or sale and delivery of spare parts;

1.6 *Party/Parties*: the Company and the Client, individually and collectively;

1.7 *Products*: all property or assets supplied or to be supplied by the Company to a Client on the basis of an Agreement;

1.8 *Services*: work done or to be done by the Company for the Client on the basis of an Agreement;

1.9 *Warranty Period*: the warranty period as defined in Article 10 of this General Conditions;

1.10 *Working Day*: a calendar day except for weekends and generally recognised public holidays within the meaning of Sections 3(1) and 3(2) of the Dutch General Extension of Time Limits Act (Algemene Termijnenwet) on which the agreed Services are provided and/or the agreed Products are supplied.

### Article 2

#### Scope of application

2.1 These conditions apply to every Agreement, obligation, legal relationship and other contract, including but not limited to all current and future requests, quotations, tenders, instructions, orders, confirmations, supplies, collaborations, services and legal acts between the Company and the Client.

2.2 These General Conditions also apply for the benefit of employees at the Company and third parties engaged by the Company in the performance of the Agreement.

2.3 Deviations from and/or amendments and/or supplements to these General Conditions only apply if and insofar as they have been confirmed explicitly and in writing by a duly authorised representative of the Company and apply only to the specific Agreement for which they are made. Terms and conditions used by the Clients do not apply and are hereby explicitly dismissed.

2.4 If the contents of the Agreement differ from these General Conditions, the contents of the Agreement will take priority.

2.5 If any one or more of the provisions in these General Conditions should for any reason prove to be null and void or be annulled, the remaining provisions in these General Conditions will remain in full force and effect, and the Company and the Client will enter into discussion in order to agree new provisions to replace the null and void or annulled provision(s), having regard as far as possible to the purport and scope of the null and void or annulled provision.

### **Article 3**

#### **Offer and Delivery of the Vehicle to the Company**

3.1 All offers and quotations made by the Company for repair works are issued without obligation, are based on information provided by the Client and remain open valid only for one (1) week. The Agreement between the Company and the Client is only finalised if and as soon as the Company has confirmed the Client's order in writing or once the Company has started to perform the Agreement.

3.2 The person delivering the vehicle to the Company premises for repair works is deemed to be authorized to approve and sign the order form on behalf of the Client. A power of attorney may be requested in writing and may also be inspected by the Company. A copy of the order form will be sent to the Client's known email address if available.

3.3 All Agreements as well as changes thereto must be done in writing.

3.4 The Client cannot derive any rights from the advice and information of the Company beyond the scope of the Agreement.

3.5 Unless expressly stated otherwise, installation, service, inspection and transport costs, as well as the costs of getting ready for use and sales tax, are not included in the price. The prices are calculated for delivery "ex works". In case of delivery elsewhere than the Company's premises upon the request of the Client, the respective additional costs will be borne by the Client.

3.6 Upon delivery to the Company, the vehicle to be worked on must be free of load, toxic materials, residue of fuel, gasoline, cement or similar materials and all in all ready for repair works (including welding) to be carried out by the Company.

3.7 If a failure to comply or comply sufficiently with the provisions in this Article leads to additional work or costs, these will be charged as such to the Client. In case the vehicle cannot be worked on due to a failure to comply, the Company will not commence any repair work and the vehicle will be stored at the Client's risk and expense. The Company will notify the Client hereof in writing in a timely manner. This is without prejudice to the Client's payment obligations.

3.8 The Client must ensure that no items of value are left in/on the vehicle when it is delivered to the Company. The Company does not accept liability for any kind of items or goods left or loaded in the vehicle.

3.9 The Client may require a detailed statement of the price of the works, as well as the term within the works will be carried out, before approving the order form. The specified prices and terms on order forms are approximate. If the stated price is exceeded or likely to be exceeded by more than 20%, the Company will contact the Client to discuss such additional costs. In that case, the Client is entitled to terminate the Agreement while paying the costs of the already carried out works by the Company. If the Client agrees to the additional costs, the changes in the price must be agreed in writing (email correspondence is sufficient). In case of exceeding or threatened exceeding of the agreed specified but unbinding term, the Company will inform the Client in writing (via email) thereof in a timely manner, stating a new date of delivery.

3.10 Unless explicitly agreed otherwise, the Company has authority to engage third parties in the performance

of the Agreement or to have third parties perform all or part of the Agreement.

#### **Article 4**

##### **Damage Appraisal**

If the Company has carried out an appraisal requiring inspection on the vehicle for more than 15 (fifteen) minutes by one of its qualified personnel, the Company will charge the costs of such inspection to the Client at a minimum of EUR 150 excluding VAT.

#### **Article 5**

##### **Payment**

5.1 Unless otherwise agreed, all prices are expressed in euros (EUR) and exclude VAT. Payment must be made in cash to the Company's bank account determined by the Company upon (i) the issuance of the invoice as well as delivery of the item or (ii) immediately after the performance of the work.

5.2 For purchases or orders on account, payment must be made on the agreed date or the date specified in the invoice. If no date has been agreed or specified payment must be received no later than eight (8) days after the date of the invoice.

5.3 The Company is entitled at any time to request an advance payment or down payment for the Services to be supplied and/or to demand security for payment thereof. The Client is obliged to comply with any such request.

5.4 The Company will have a right of retention on the vehicle and all other goods the Company holds towards the Client and anyone else requesting delivery thereof in respect of all claims the Company has or may at any time have against the Client.

5.5 The Client owes storage costs calculated in accordance with the provisions of Article 7, paragraph 2, as long as the Company keeps vehicles under this Article.

5.6 If the Client does not pay an invoice of the Company on time and in full, it will be deemed to be in default by operation of law and all sums due to the Company will become immediately payable without further default notice. The Client will also be due to pay interest equivalent to the statutory commercial interest rate pursuant to Article 6:119a of the Dutch Civil Code. The Company will be entitled to suspend performance of the Agreement in appropriate cases until the payment has been received. The Client is financially responsible for all costs of storage and other costs incurred in this regard.

5.7 All judicial and extrajudicial costs incurred by the Company to collect amounts owed by the Client will be borne by the Client. Such costs include, in any event, the costs for collection agencies, court bailiffs, lawyers and experts. The extrajudicial costs are set at 15% of the amount due with a minimum of EUR 250 excluding VAT, without prejudice to the Company's right to claim the actual costs if these are higher.

5.8 Each payment is deemed to be primarily payment of any interest and/or costs owed, and after full payment thereof, the payment is deemed to be payment of the oldest outstanding invoice, regardless of whether or not the payment is made even if it expressly states contrary.

5.9 The Company reserves the right to deduct and/or set off any of its debts against its receivables from the Client. The Client is not permitted to offset any liability to the Company – disputed or otherwise – against any liability by the Company to the Client – disputed or otherwise – unless such set off has been agreed in writing by both Parties.

#### **Article 6**

## Old Parts

All (old) parts and/or materials which have been removed and/or replaced will become the property of the Company, unless the Parties have agreed otherwise in writing. In such case the Client must collect these parts and/or materials immediately upon the delivery of the vehicle.

## Article 7

### Delivery of the Vehicle to the Client

7.1. Unless otherwise agreed in writing, all delivery times are approximations only and never count as a deadline. The Company will not be liable for any delay in the delivery of the vehicle unless such delay is due to gross negligence or wilful misconduct from the part of the Company. Liability for indirect or consequential losses and/or damages is excluded. Rental and/or lease costs in respect of a replacement vehicle will not be compensated by the Company unless prior written consent with such costs has been obtained from the Company.

7.2. The Company will inform the Client once its vehicle is ready for delivery. From that point on, the vehicle is held at the expense and risk of the Client. If the vehicle is not collected within 14 (fourteen) days, the Company is entitled to charge custody fees (including compensation for insurance costs) of at least EUR 25 per day.

7.3. The provision of Article 3 paragraph 2 of these General Conditions also applies to the person who takes delivery of the vehicle.

7.4. The Company carries out its repair works aiming the vehicle to look like in its mint condition to the best of its ability, however it is not liable for and cannot repair the usual wear and tear. Any visual disappointments of the Clients in this regard will be dismissed. Complaints will never be justified on the basis of minor deviations that are normal within the sector, aesthetic irregularities or the results of wear and tear.

7.5. The Client is obliged to check the vehicle immediately upon delivery for any defects and to report these to the Company within a period of seven (7) Working Days after delivery, in writing and with sufficiently detailed reasons for the complaint. Latent defects must be notified to the Company within seven (7) Working Days after they are or else reasonably ought to have been discovered.

## Article 8

### Retention of Title

8.1. After completion of the vehicle the Company reserves the title with regard to all Products, including parts, it has supplied and/or fitted until the Client has paid all the Company's outstanding invoice/s.

8.2. The Client will respect this retention of title and manage those Products with due care and neither dispose of nor encumber these parts or the vehicle.

## Article 9

### Force Majeure

9.1 Force majeure is understood to include the situation where performance of the Agreement is prevented, in full or in part and temporarily or permanently, due to circumstances beyond the control of the Parties, even if those circumstances were already foreseen or foreseeable at the time when the Agreement was concluded. Force majeure is understood to include but is not limited to strikes and lockouts at work, exceptionally high absence rates, delayed or failed supplies from suppliers, communications and/or transportation disruptions, pandemics, weather circumstances preventing assembly or installation, government measures, accidents, fire and other disruptions in the Company premises, theft or embezzlement from the Company's warehouses or

workshops and interruptions of business operations, .

9.2 If one of the Parties is faced with a force majeure situation, it will immediately notify the other Party of the situation, confirming the nature of the force measure and the current prospects.

9.3 The Parties' obligations will be suspended in the event of force majeure. If the force majeure situation is permanent in nature, the Parties will enter into discussions regarding either amendment or termination of the Agreement, without the Company being obliged to pay any compensation to the Client.

## **Article 10**

### **Warranty and Liability**

10.1 The Company warrants the repair works carried out for a period of one (1) year, starting from the day the repair is completed , unless another period has been expressly agreed in writing. Defects found must be reported to the Company in writing without delay, but in any case, within one (1) month of their discovery. No warranty is given on emergency repair works made. The entitlement to warranty will lapse if the Client does not:

- i. make the object available for a physical assessment of the complaint within the period indicated by the Company above;
- ii. inform the Company in writing of its complaint with regard to visible defects with a clear description thereof within one (1) month after it arose;
- iii. give the Company the opportunity to remedy the defect;

Additionally, the warranty does not apply to defects resulting from normal wear and tear, careless or improper use, failure to observe instructions and directions from the Company, vandalism, inexperienced maintenance, accidents or disasters such as fire or water damage. Neither is any warranty issued in relation to repair work undertaken by third parties without prior consent of the Company and not done on the instructions and at the expense of the Company, unless such repair work was absolutely necessary and such third parties are commonly recognized as experts as a breakdown service.

10.2 A guarantee for Products, including but not limited to spare parts, is only issued if and to the extent that the Company has acquired such Products covered by a guarantee from its own supplier.

10.3 The Company is only liable for replacement or repair free of charge, at its own discretion, of defects discovered and notified within the Warranty Period at the terms set forth in paragraph 1 of this Article 10. Every form of further liability on the part of the Company, including but not limited to liability for commercial, consequential or indirect damage sustained by the Client is hereby excluded, unless the damage is caused by gross negligence or wilful misconduct of the Company.

10.4 Without prejudice to the foregoing provisions, the liability of the Company is in all cases limited to 25% of the invoice value of the Services causing the damage or, if the damage is covered by insurance maintained by the Company, to the amount actually paid out by the relevant insurer.

10.5 Every claim by the Client against the Company will lapse on the mere expiry of one year after the date of the performance of the Services or the date when the Services should have been performed.

10.6 The Client indemnifies the Company against, and will compensate the Company for, claims by third parties with regard to the performance of the Agreement.

10.7 The Client cannot derive any rights from the advice and information of the Company beyond the scope of the Agreement.

## Article 11

### Termination of the Agreement

11.1 If the Client terminates the Agreement for convenience or the Company terminates the Agreement because of default on the part of the Client, the Client will be due to pay the Company a termination payment amounting to 25% of the agreed price (including VAT), without prejudice to the Company's right to recover the damage actually sustained as a result of the termination.

#### 11.2 If the Client

- i. fails to comply with any obligation to the Company or to do so promptly, completely and correctly;
- ii. is declared bankrupt or an application for bankruptcy is filed, or if a moratorium on payments is applied for or granted or if a debt restructuring arrangement is applied for or granted;
- iii. property, all or any part of the property of the Client, is subject to an attachment;
- iv. is dissolved or liquidated, or the subject of a merger, demerger or split-off;
- v. suspends or transfers its business operations or a significant part thereof;
- vi. information provided to the Company appears to be inconsistent with the actual situation; and
- vii. has not yet fulfilled all of its obligations to the Company,

the mere occurrence of one or more of the above-mentioned circumstances will entitle the Company either to terminate the Agreement and recover what has been supplied as its own property, or demand full payment of any sum due by the Client to the Company, all without any further notice of default or judicial intervention. In addition, the Company is at all times entitled to request compensation from the Client.

11.3 The Client may only cancel the Agreement or part of it with the prior written approval of the Company. If the Client partially cancels the Agreement, it may not claim any reversal of work already done by the Company and the Company fully retains the right of payment for the works done already.

## Article 12

### Personal Data

12.1 The Parties will treat all Personal Data, in the meaning given to it in the GDPR Regulation – Regulation (EU) 2016/679, that it may receive from the other Party or from third parties strictly in accordance with the GDPR Regulation and all other applicable data protection legislation. Personal data will only be used as far as this is required to fulfil the obligations under the Agreement or under an agreement with a third party.

12.2 Neither Party will forward any personal data to third parties unless allowed and necessary under the Agreement.

12.3 The Company will take reasonable measures to ensure that personal data is held in accordance with applicable data protection legislation. Personal data will not be kept for longer than necessary for the purpose for which it was collected, or as legally required.

12.4 The Client has a right to (i) inspect and correct relevant personal data and (ii) erase inaccurate personal data as well as (iii) object against processing of relevant personal data.

## Article 13

### Applicable Law and Disputes

13.1 All of the Company's Agreements and their implementation are exclusively governed by Dutch law.

13.2 The Clients represent and warrant that it is and shall remain during the term of the Agreement in

compliance with all applicable laws, regulations and codes, including but not limited to all anti-bribery laws and regulations. In connection with any aspects of this General Conditions or any other transaction involving the Company, the Client has not and will not, directly or indirectly, in connection with the performance of services under this General Conditions or otherwise on behalf of the Company, engage in prohibited conduct. Prohibited conduct includes to promise, offer or grant to a person any undue advantage or to request or accept any undue benefit or advantage to improperly influence actions.

13.3 In case of any discrepancy between the translations of this General Conditions provided by the Company or available at its website, the English version shall prevail.

13.4 The competent court in Gelderland or, at the Company's own discretion, the court in Kleve Germany, shall have jurisdiction in any disputes arising from or related to these General Conditions or the Agreements or indeed any other obligation between the Company and the Client.