



**STANDARD TERMS AND CONDITIONS
OF SALE AND DELIVERY
ZF SERVICES NEDERLAND B.V.
From 1 July 2011**



Standard terms and conditions of sale and delivery of ZF SERVICES NEDERLAND B.V., based in Delfgauw

I. General

1. These standard terms and conditions apply to – and are an integral part of – all agreements and offers to enter into agreements for the performance of deliveries and/or services by the supplier. A reference by the client to its own purchase and/or tender conditions or any other conditions is not accepted by the supplier.
2. In these conditions of delivery the following terms have the following meaning:
 - a) product: goods and services (including maintenance, repair, advice and inspection);
 - b) the supplier: ZF SERVICES NEDERLAND B.V.;
 - c) the client: those to whom the above referred to offer is directed or with whom the agreement is entered into.

II. Offer

1. Any offer made by the supplier is without prejudice and subject to contract.
2. Every offer is based on the performance of the agreement by the supplier under normal conditions and during normal working hours.

III. Agreement

1. The agreement and/or order confirmation by the supplier serves as evidence of all that which has been agreed.
2. If the agreement is in writing, it is formed on the day of the signing of the contract by the supplier, or on the day of dispatch of the written order confirmation by the supplier respectively, which order confirmation also may be issued by fax or E-mail (in scanned format).
3. Additional work is all that which the supplier in consultation with the client, whether recorded in writing or not, delivers and/or installs during the performance of the agreement in addition to the quantities explicitly set out in the contract or order confirmation or is performed in excess of the work explicitly set out in the agreement or order confirmation.

IV. Price

1. The prices submitted by the supplier are exclusive of VAT and other governmental charges levied on sale and delivery and are based on the Incoterms 2010 'FCA', client's place of business, unless agreed otherwise.
2. The supplementary conditions in respect of sundry order costs as published on our internet site www.zf.nl apply. These costs are additional to the purchase price.
3. The agreement includes the right of the supplier to separately invoice the additional work performed as soon as the amount to be invoiced to that end is known. The rules set out in paragraph 1 and 2 of this article apply mutatis mutandis to the calculation of the additional work.
4. Cost estimates are charged unless agreed otherwise.
5. Packaging is not included in the price and will be charged separately. Packaging is not returned unless agreed otherwise.
6. Loading, unloading and transport costs of raw materials, semi-finished products, models, tools and other goods made available by the client are not included in the price and will be charged separately. Any costs paid by the supplier to that end are for the account of the client. If the supplier has agreed to assemble the product, the price will be calculated inclusive of assembly and operational delivery of the product at the location specified in the offer inclusive of all costs except for those costs not included in the price as referred to in the previous paragraphs, or as referred to in Article VII. Costs incurred in respect of unworkable weather will also be passed on.

V. Information



1. Information provided in catalogues, parts books, workshop manuals, software applications, images, logos, drawings, measurement and weight specifications, calculations and the like are binding, if and insofar these have been explicitly included in the contract signed by the parties or in an order confirmation signed by the supplier.
2. The offer made by the supplier, together with the drawings, calculations, software, descriptions, models, tools etc. produced or furnished by the supplier shall remain the supplier's property, irrespective whether costs have been charged for same. The intellectual property rights concerning information provided or on which the manufacturing and construction methods, products, etc. are based shall remain the exclusive property of the supplier, even where these have been charged for. The client warrants that in the absence of authorisation in writing from the supplier, the said information will not be copied, made available to third parties, disclosed or used except for purposes of performing the agreement.
3. A disclaimer is in force in respect of all our information which can be found on our internet site www.zf.nl.

VI. Delivery period

1. The delivery period starts at the latest of the following points in time:
 - a) the day the agreement is formed;
 - b) the day of receipt by the supplier of the documents, information, licences, goods to be repaired and such like necessary for the performance of the order;
 - c) the day of compliance with the formalities necessary for the start of the work;
 - d) the day of receipt by the supplier of that which in accordance with the agreement has to be paid in advance of the commencement of the work;
 - e) if a delivery date or week has been agreed, the delivery period is formed by the period between the date of formation of the agreement and the delivery date or week.
2. The delivery period is indicative and is based on the working conditions in force at the time of the entering into of the agreement and on the delivery on time of the materials necessary for the performance of the work as ordered by the supplier. If, through not fault of the supplier, a delay arises as a result of changes in the aforementioned working conditions or because the materials ordered on time for the performance of the work are not delivered on time, the delivery period will be extended insofar as necessary.
3. The product is, as regards the delivery period, considered delivered when it is ready for inspection, if inspection at the company of the supplier has been agreed, and in all other cases when it is ready for dispatch. All this after the client has been informed of such in writing and without prejudice to the obligation of the supplier to perform any possible assembly/installation obligations it might have.
4. Without prejudice to that provided elsewhere in these conditions in respect of extension of the delivery period, the delivery period is extended by the duration of the delay arisen on the side of the supplier which is the result of the non-compliance by the client with any obligation resulting from the agreement or the cooperation to be required from him in relation to the performance of the agreement.
5. If the delivery period is exceeded by more than 16 weeks, the client shall be entitled to terminate the agreement in full or in part, except where this is due to a force majeure circumstance affecting the supplier.
6. A contractual fine imposed on exceeding the delivery period is considered to substitute any possible right of the client to compensation. Such a fine is not payable if the failure to meet the delivery period is the result of force majeure.
7. If after notice of default the client remains in default in respect of the purchase of the product, the supplier shall be entitled to charge all costs resulting from this to the client.

VII. Assembly / installation

1. The client is responsible towards the supplier for ensuring that all the arrangements, provisions and/or conditions necessary for the erection of the product to be assembled and/or for the proper operation of the product in assembled condition, are performed correctly and on time except if and to the extent that such performance is carried out by, or on behalf of, the supplier in accordance with information and/or drawings provided by or on behalf of the latter.



2. Without prejudice to the provision of paragraph 1, the client shall in any case ensure for its own expense and risk that:
 - a) the personnel of the supplier, as soon as they have arrived at the assembly location, can commence and continue their activities during normal working hours and in addition, if the supplier considers this necessary, outside normal working hours, provided the client has been informed of such in good time;
 - b) suitable accommodation and all facilities for the personnel of the supplier as required pursuant government regulations, the agreement and use are present;
 - c) the access roads to the place of erection are suitable for the required transport;
 - d) the allocated place for erection is suitable for storage and assembly;
 - e) the required lockable storage spaces for material, tools and other goods are present;
 - f) that the necessary and usual auxiliary personnel, auxiliary tools, auxiliary and company materials (fuels, oils and greases, polishing material and other incidental material, gas, water, electricity, steam, compressed air, heating, lighting etc included), and the, for the company of the client usual measuring and testing equipment, are available to the supplier at the right place on time and without charge;
 - g) that all necessary safety and precautionary measures have been taken and are maintained, as well as that all measures have been taken and are maintained in order to satisfy the applicable government regulations in respect of the assembly/installation;
 - h) at the start of (and during) the assembly the products sent are present at the correct location.
3. Any loss or costs, arising due to the conditions set out in this article not having been satisfied, or not having been satisfied on time, are for the account of the client.
4. In respect of the assembly/installation period, article VI applies mutatis mutandis.

VIII Conditions for part exchange of components

If a client uses the opportunity to return an old component at the time of purchase of a new or reconditioned product, it needs to be worthy of repair. Worthy of repair are those components which have been used and operated professionally, independent of mileage and wear and tear.

1. Components are excluded from part exchange:
 - a) if the component has been used for an unauthorised application;
 - b) in the event of damage due to force and/or accident and damage caused by gross negligence and/or incompetent previous repairs by third parties;
 - c) in the event of fire damage;
 - d) in the event of applying lubricants not prescribed by ZF and/or a lack of those;
 - e) if it has been completely or partly dismantled;
 - f) if components have been fitted with non-original parts;
 - g) in the event of mechanical influences from outside (breaking and entering);
 - h) damage resulting from towing the vehicle;
 - i) in the event of damage caused by corrosion;
 - j) if it is not in accordance with the parts list.
2. Electronic and electric components are excluded from part exchange:
 - a) in the event of water damage;
 - b) after a short-circuit, voltage surge and/or overvoltage;
 - c) in the event of damage caused by force and/or accident and damage due to gross negligence and/or fault;
 - d) if it has been completely or partly dismantled;
 - e) in the event of mechanical damage.
3. Components for part exchange need to be made available free domicile to ZF Services Nederland B.V.

IX. Inspection

1. The client must inspect the product within 14 days after delivery as referred to in article VI paragraph 3 – if assembly/installation has been agreed – or within 14 days after the assembly/installation respectively. If this term has passed without any written and



specified notification of justified complaints, the product is considered to have satisfied the agreement.

2. In the event of defects which do not, or barely, influence the anticipated use of the product, the product satisfies the agreement.
3. Without prejudice to the obligation of the supplier to fulfil its guarantee obligations, the acceptance in accordance with the preceding paragraphs shall exclude any claim of the client in respect of a failure in the performance of the supplier.

X. Passing of risk and ownership

1. Immediately after the product is considered to have been delivered in the meaning of article VI paragraph 3, the client carries the risk for all direct and indirect loss which might be caused to or by this product, except where the loss is attributable to the gross negligence or wilful recklessness on the part of the supplier's management staff.
2. Without prejudice to the previous paragraph and the provision in article VI paragraph 3, the ownership of the product only passes to the client when the client has fully paid all that which the client still owes the supplier by reason of goods supplied, goods still to be supplied and work carried out, including interest and costs.
3. The supplier shall in the relevant case be entitled to free access to the product. The client shall extend the supplier all cooperation in order to allow the supplier to exercise the retention of title referred to in paragraph 2 of this Article by repossessing the product, including any necessary dismantling required.
4. The client is not entitled to dispose of goods which are subject to retention of title until the full claim of ZF Services Nederland B.V. has been paid.

XI. Return of goods

1. Original ZF products may only be returned if;
 - a) the supplier is notified of and approves the return request received no later than 3 months after the original delivery took place.
 - b) the goods are in their original packaging and are unused;
 - c) the goods are furnished with a copy of the original delivery bill or sales invoice.
2. Electric components, sealing and rubber parts cannot be returned.
3. The supplementary conditions in respect of returning goods as published on the internet site www.zf.nl also apply.

XII. Payment

1. All payments, without any deduction or set-off, must be made before delivery unless agreed otherwise.
2. Deliveries on account are to the maximum agreed credit limit and have a payment term of 30 days from the date of invoice, unless otherwise agreed.
3. If the client does not pay within the agreed terms, he is considered to be in default by operation of law and the supplier is entitled, without any notice of default being required, to charge him from the due date, the statutory interest in force for commercial agreements (article 6:119a Dutch Civil Code) and in addition the client has to pay all the judicial and extra-judicial costs relating to the collection of the claim.

XIII. Guarantee

1. Without prejudice to the restriction set out below, the supplier guarantees both the soundness of the product supplied by him and the quality of the materials used or delivered with such. The guarantee does not apply if it relates to defects to the supplied product which are visible during inspection and the supplier has not immediately been notified of this defect. The client must show that the defects have occurred within the guarantee period as referred to in paragraph 3 and 4 of this article, and that they are exclusively or predominantly a direct result of a construction error as applied by the supplier or are the result of faulty workmanship or the use of bad material.
2. Defects that fall under the guarantee referred to in paragraph 1 above must be notified by the client in writing to the supplier without delay and no later than 14 days after discovery



- thereof, in default of which the warranty will be forfeited. Defective parts must not be returned except where specified by the supplier.
3. The defects covered by the guarantee referred to in paragraph 1 shall be corrected by the supplier through repair or replacement of the faulty part, whether or not at the company of the supplier or by sending a part in replacement, all this always at the option of the supplier. All costs which exceed the mere obligation as described in the previous sentence such as, but not limited to, transport costs, travel and accommodation costs as well as dismantling and assembly costs, are for the account of the client.
 4. The following guarantee periods apply to new components in the vehicle categories below:
 - a) cars and light vehicles up to 3.5 ton statutory permitted total weight: 12 months from taken into operational use or issue of the vehicle registration certificate with a maximum of 18 months from delivery and without kilometre restriction;
 - b) vehicles over 3.5 ton statutory permitted total weight: 12 months from taken into operational use or issue of the vehicle registration certificate with a maximum of 18 months from delivery, but with a maximum of 100,000 kilometres;
 - c) vehicles of which the mileage made cannot or barely be checked, such as construction vehicles, tractors and other agricultural machines: 12 months from taken into operational use or issue of the vehicle registration number with a maximum of 18 months from delivery and if vehicle registration number has not been issued for such, 12 months from taking the vehicle or machine into operational use in accordance with article VI paragraph 3, with a maximum of 18 months from delivery of the component to the client, but in both cases with a maximum of 1500 operational hours.
 - d) Guarantee periods for all other use: 12 months from delivery and in case of a company operating around the clock, 6 months from delivery.
 - e) Guarantee period for ship's transmissions: 12 months from taking into operational use.
 - f) In regard to the delivery of new components to private individuals, a guarantee period of 2 years from date of purchase applies, subject however to a maximum of 100,000 km, should this be reached earlier.
 5. In respect of repairs and part exchange components for the vehicle categories below the following guarantee periods apply:
 - a) cars and light vehicles up to 3.5 ton statutory permitted total weight: 12 months from taken into operational use or a maximum of 100,000 km; whichever is reached first.
 - b) vehicles over 3.5 ton statutory permitted total weight:
 - part repair 6 months or a maximum of 50,000 km from the date of repair; whichever is reached first; exclusively on the replaced parts.
 - overhaul of exchange aggregates: 12 months or a maximum of 100,000 from delivery; whichever is reached first.
 - c) vehicles of which the mileage made cannot or barely be checked, such as construction vehicles, tractors and other agricultural machines:
 - part repair: 6 months or a maximum of 750 operational hours; exclusively on the replaced parts.
 - overhaul of exchange aggregates: 12 months or a maximum of 1500 operational hours.
 - d. Guarantee period for all other purposes in respect of repair work: 6 months or a maximum of 2000 km, or 500 operational hours.
 - e. Guarantee periods for ship's transmissions in respect of repairs:
 - Part repair: 6 months from repair; exclusively on the replaced parts.
 - Service or exchange transmissions: 12 months from delivery.
 6. The client must allow the required time and opportunity for the performance of the work or delivery of replacement parts necessary to remedy the defects covered by the guarantee referred to in paragraph 1 at the risk of guarantee lapsing.
 7. If the client does not, not properly or not on time fulfil any obligation resulting for him from the agreement entered into with the supplier or from a related agreement, the supplier is not bound by any guarantee, under whatever name, under these agreements. If the client, without the prior written consent of the supplier, proceeds to dismantle, repair or carry out any other work in respect of the product or have this done, any claim by reason of the guarantee lapses.



8. If the supplier, in order to satisfy his guarantee obligations replaces parts/products, the replaced parts/products become the property of the supplier. The guarantee period for these replaced parts/products is restricted to that of the originally supplied product.
9. Not falling under the guarantee are in any case defects which arise or are wholly or in part the result of:
 - a) the non-observance of directions for operation and maintenance or other than the anticipated normal use;
 - b) normal wear and tear;
 - c) repairs by third parties, including the client;
 - d) the application of any government regulation in respect of the nature and quality of the applied materials;
 - e) materials and goods respectively used in consultation with the client;
 - f) materials or goods which have been provided to the supplier by the client for processing;
 - g) materials, goods, working methods and constructions insofar used on the explicit instruction of the client or delivered by or on behalf of the client;
 - h) parts obtained by the supplier from third parties, to the extent the third party has not provided a guarantee to the supplier.
10. No guarantee is provided in respect of inspections, advice and similar activities by the supplier.
11. The alleged non-compliance by the supplier of his guarantee obligations does not release the client from the obligations resulting for him from any agreement entered into with the supplier.
12. When supplying loose parts, the supplier only guarantees that the parts correspond with the drawing / technical specifications.

XIV. Liability

1. The liability of the supplier is limited to the performance of the guarantee obligations as set out in article XIII of these conditions.
2. Except in the event of an intentional act or omission or wilful recklessness on the part of the supplier's management staff and notwithstanding the provisions of paragraph 1, all liability of the supplier such as for trading loss, loss of profit, stagnation and other indirect loss as well as loss as a result of liability towards third parties, is excluded.
3. The supplier is furthermore not liable for:
 - a) infringements of patents, licences or other rights of third parties as a result of using information provided by or on behalf of the client;
 - b) damage or loss, irrespective of its cause, of raw materials, semi-finished products, models, tools and other goods made available by the client.
4. If the supplier, without being instructed to assemble, does provide aid and assistance, of whatever nature, during the assembly, this is carried out for the risk of the client.
5. The client is obliged to indemnify or compensate the supplier in respect of all claims by third parties for compensation of loss, in respect of which the liability of the supplier in relation to the client has been excluded in these conditions.
6. If the supplier cannot make a claim in respect of the above limitations of liability, the supplier's liability at all times will be limited to 15% of the purchase price of the product.

XV. Force majeure

In these Standard Terms and Conditions force majeure means any shortcoming by the supplier not attributable to his fault and which neither pursuant to the law, legal act or generally accepted standards are for his account as well as, insofar as not already included, terrorism, war, threat of war, civil war, riot, industrial action, lock-outs, transport problems, fire, natural force and other serious disturbances in the company of the supplier or its contractors, over which the supplier has little or no control.

XVI. Suspension and termination

1. In the event of an impediment to the performance of the agreement as a result of force majeure the supplier is entitled, without legal intervention, either to suspend the agreement for a maximum of 6 months, or to terminate the agreement wholly or in part, without being liable to pay any



- compensation. During the suspension the supplier shall be entitled and at the end thereof shall be obliged to demand performance of the agreement or termination thereof in full or in part.
2. Both in the event of suspension and termination pursuant to paragraph 1 of this Article, the supplier is entitled to demand immediate payment for processed and produced raw materials, materials, parts and other goods reserved by him for the performance of the agreement to the value which must reasonably be attached to such. In the event of termination pursuant paragraph 1 of this Article, the client is obliged, after payment of the sum due pursuant to the preceding sentence, to take those goods, failing which the supplier is entitled to store these goods at the expense and risk of the client or to sell them for his account.
 3. If the client does not, not properly or not on time perform any obligation resulting from the agreement entered into with the supplier or from a related agreement, or if there is good cause to fear that the client is not or shall not be able to fulfil his contractual obligations towards the supplier, as well as in the event of bankruptcy, a suspension of payments, closing down, liquidation or the creation of an (undisclosed) pledge on (a part of) the company of the client, including an (undisclosed) pledge on an important part of his accounts receivable, the supplier shall be entitled to demand the provision of additional security for the fulfilment of the client's payment obligations, and without further notice of default or judicial intervention being required, to suspend the performance of each of these agreements for a maximum of 6 months or to terminate same wholly or in part, without being liable for any compensation or guarantee and without prejudice to any of its other rights. During the suspension the supplier is entitled to, and at the end of such he is obliged to, elect for performance or a full or partial termination of the agreement(s).
 4. In the event of suspension pursuant to paragraph 3, the agreed price becomes immediately due and payable, after deduction of instalments already paid and any costs saved as a result of the suspension by the supplier, and the supplier is entitled to store the processed and produced raw materials, materials, parts and other goods reserved by him for the performance of the agreement, at the expense and risk of the client.

XVII. Disputes

Any dispute arising in relation to any agreement in respect of which the current delivery conditions apply wholly or in part or in relation to further agreements deriving from it shall be submitted to the exclusive jurisdiction of the competent court in The Hague, the Netherlands.

XVIII. Applicable law

All agreements to which these conditions apply, wholly or in part are governed by Dutch law. The applicability of the Vienna Sales Convention is excluded.

ZF Services Nederland B.V.