

DELIVERY TERMS AND CONDITIONS

These terms and conditions of delivery apply to the following companies and operating companies:

- Autobedrijf Loven-Trucks B.V.
- Loven Truck Helmond B.V.
- Loven Beheer Nederland B.V.
- Bemo Leasing en Verhuur B.V.
- Bemo Bedrijfswagens B.V.
- GTO Tyres B.V.

GENERAL

GENERAL TERMS AND CONDITIONS relating to valuation, inspection, purchase, repair and maintenance of light commercial vehicles (with a total weight including payload less than or equal to 3,500 kg.) and their parts and accessories, as well as relating to valuation, inspection, purchase, repair and maintenance of heavy commercial vehicles (with a total weight including carrying capacity greater than 3,500 kg.) and their parts and accessories. These terms and conditions apply to the exclusion of any general terms and conditions applied by the buyer/client. Differing conditions or stipulations will only form part of the agreement insofar as such conditions or clauses have been expressly agreed in writing by one of the above-mentioned companies belonging to the Loven group (hereafter referred to as the Loven companies).

Article 1: Offers and conclusion of agreements

1. All offers and quotations in whatever way and by whomsoever of the seller/repairer and/or wherever made are without obligation and are made on the basis of the prices and specifications valid at the time of concluding the agreement.
2. All agreements, including amendments, are entered into under the suspensive condition of approval by the management board of the dealer/repairer. If the management board has not informed the buyer/client in writing within five working days after the conclusion of the agreement that it does not approve the agreement, the reservation will be deemed to have lapsed.
3. The agreement on a new commercial vehicle must always be in writing; the agreement on a used commercial vehicle must be in writing upon request. A copy of a written agreement must be provided to the buyer. However, the absence of a written agreement does not make it null and void.
4. A written purchase agreement will include at least:
 - the description of the commercial vehicle and any commercial vehicle to be traded in, both with any accessories;
 - the price of any commercial vehicle to be traded in at the time of delivery of that commercial vehicle;
 - the price of the commercial vehicle to be delivered;
 - the probable delivery date and delivery address;
 - the warranty terms which apply to the agreement;
 - the method of payment.

Article 2: Adjustments, partial deliveries

1. The dealer/repairer reserves the right to deliver goods other than those ordered, provided they have the same normal usage properties as the goods originally ordered, as well as the special usage properties if and to the extent agreed. The buyer/client is not entitled to compensation and/or dissolution. The buyer/client is also not entitled to suspend obligations towards the dealer/repairer.
2. The dealer/repairer is entitled, without prior knowledge or knowledge of the buyer/client, to make technically necessary changes (or have such changes made) to the sold commercial vehicles, their equipment and/or parts without the buyer being able to assert any right thereto.
3. The dealer/repairer is entitled to deliver and invoice an order in parts.

Article 3: Time limits

1. Any (delivery) time limits stated are approximate only and are not to be regarded as deadlines. If the presumed delivery date is exceeded by three months, the buyer/client may give the dealer/repairer written notice of default. If the dealer/repairer has not delivered the vehicle three weeks after this notice of default, the buyer/client is entitled to declare the agreement terminated without judicial intervention. In that case, the buyer/client will not be entitled to compensation unless the non-delivery is due to gross fault or intent on the part of the dealer/repairer.
2. Repair times are only approximate.

Article 4: Prices

1. Stated prices are net prices, exclusive of VAT, delivery costs, service costs and other government and/or third-party charges applicable to the sale and/or delivery and/or performance of the agreement.
2. Prices are based on delivery ex warehouse/business, unless otherwise agreed in writing.
3. Price quotations are made only on the basis of the prices and workshop rates valid at the time of purchase or order for repair or maintenance. If a price increase occurs after the offer and/or conclusion of any agreement (e.g. due to an increase in taxes, import duties, excise duties, levies, exchange rates, wages, factory and/or importer's prices, etc.), the dealer/repairer is entitled to increase the price mentioned and/or agreed in the offer. The buyer/client will be bound by the price increase at all times, subject to the provisions of paragraph 4.
4. If it becomes likely that the quotation for a repair or other order will be exceeded by more than 25%, the buyer/client should be contacted in order to discuss the additional costs. In that case, the buyer/client will be entitled, within the period of 1 week, to terminate the agreement while compensating the dealer/repairer for the work already carried out by it.
5. Exchange engines/exchange parts will only be delivered against surrender of an old exchange engine/exchange part which may not be broken, cracked, welded or otherwise damaged or incomplete and on which the various parts can be revised in a normal manner. If an exchange engine/exchange part with such defects is handed in, the higher costs will be borne by the buyer/client.

Article 5: Delivery and transfer of risk

1. Delivery will be made:
 - a. by having the purchased goods delivered to the address of one of the Loven companies for the benefit of the buyer/client;
 - b. by delivery of the purchased item to the address of the buyer/client;
 - c. by delivery of the purchased item to an address specified by the buyer/client.
2. If the purchased goods are made available at the address of one of the Loven companies for the benefit of the buyer/client, the buyer/client must collect the purchased goods within two weeks of the date of the message from the dealer/repairer to the buyer/client that the purchased goods are available.
3. Upon delivery of the sold goods by the dealer/repairer to the address of the buyer/client or the address specified by the buyer/client, the buyer/client must immediately take delivery of the sold goods.
4. If the buyer/client does not take delivery or collect the sold goods (in good time) in accordance with the above, the dealer/repairer will be entitled to charge storage costs in accordance with the applicable rate in the dealer's/repairer's company or on site. The risk of damage and/or loss within the two-week period mentioned in paragraph 2, as well as during the period of storage, is borne by the buyer/client.
5. If the agreement and/or these general terms and conditions do not expressly state otherwise, the risk associated with the sold goods passes to the buyer/client at the time the sold goods leave the dealer's/repairer's premises.

Article 6: Cancellation

Without prejudice to the dealer's/repairer's right to demand compliance, the dealer/repairer can, but is not obliged to, if the buyer/client wishes to cancel the agreement, terminate the purchase agreement, in which case the dealer/repairer will be entitled to charge the buyer/client at least 15% of the purchase price as compensation. A request to cancel a purchase agreement must be made in writing by the buyer.

Article 7: Payment

1. Unless expressly agreed otherwise, payment must be made in cash prior to the delivery of goods or immediately after the provision of services, respectively.
2. If the parties agree that payment is made by means of deposit or transfer into an account designated by the dealer/repairer, this must take place within ten days of the invoice date, unless otherwise agreed in writing. The value date indicated by the bank is considered the payment day.
3. If the buyer/client fails to fulfill one or more payment obligations, or fails to do so on time or in full, the buyer/client shall be in default by operation of law without further notice of default being required and the buyer/client shall be obliged to pay the European Central Bank (ECB) refinancing interest, plus 7% on an annual basis of the invoice amount for the duration of the default. In addition, the buyer/client is obliged to pay the extrajudicial collection costs, which are set at 15% of the outstanding claim with a minimum of €225.00. Furthermore, the buyer/client is obliged to pay the legal collection costs incurred by the dealer/repairer.
4. Payments made by the buyer/client will always first serve to settle all interest due, then to settle costs and finally to settle the longest outstanding payable invoices, even if the buyer/client states that the payment relates to a later invoice.
5. Objections to invoices sent to the buyer/client must be notified to the dealer/repairer in writing within five working days of the due date. If no objection to an invoice is made within this period, the buyer/client is deemed to have agreed to the invoice sent.
6. The dealer/repairer has the right at all times to offset all possible debts and obligations of one or more companies belonging to the Loven companies as well as the sister company Groothandel Truck Ondernemden (G.T.O.) B.V., located at the Industriestraat, against claims on the buyer/client.
7. In the event of liquidation, insolvency, bankruptcy or suspension of payment on the part of the buyer/client, the dealer's/repairer's claims will be immediately due and payable.

Article 8: Complaints

1. If the dealer/repairer has taken on the transport of goods, the buyer/client must check the goods for transport damage immediately on delivery and, if applicable, must accurately state the damage ascertained on the transport document to be signed by them after receipt. The buyer/client will send this transport document to the dealer/repairer no later than two working days after delivery of the goods. If the buyer/client does not comply with this condition for complaint, their right to claim transport damage lapses.
2. With regard to externally visible complaints, not caused by transport, the buyer/client must report the defects to the dealer/repairer immediately on delivery, failing which the buyer/client will be deemed to have unconditionally accepted the performance.
3. Until no more than 3 months after delivery of the company car/performance, the buyer/client can submit to the dealer/repairer any complaints relating to defects that are not externally visible. These complaints must be submitted in writing to the dealer/repairer within eight days after the complaint was discovered or could reasonably have been discovered by the buyer/client. If the complaint is not reported to the dealer/repairer within 3 months of delivery of the commercial vehicle/performance and not within 8 days of discovery, the buyer/client will be deemed to have unconditionally accepted the purchased/performed goods.
4. In case of timely complaints, the buyer/client will have to give the dealer/repairer the opportunity to check the complaint. If the complaint is found to be justified by the dealer/repairer, the dealer/repairer will be given the necessary time to replace the sold goods and/or to take the required measures. In case of replacement, the benefit that the buyer/client has thus far had from the sold item/performance will be taken into account and fair compensation will be charged to the buyer/client.
5. Complaints relating to a particular item or relating to particular work will not affect the buyer/client's obligations relating to other products or parts of this or any other agreement.
6. Complaints submitted in time will not be considered if it appears that the buyer/client has changed/authorised consent to the purchased goods/performance, and/or has repaired/authorised repairs, except with the prior written changes of the dealer/repairer.

Article 9: Liability and indemnity

1. Without prejudice to the warranty provisions, the dealer/repairer expressly excludes all liability towards the buyer/client for all damage for whatever reason, including all direct and indirect damage (such as consequential damage, trading loss or loss of income), except for liability for damage caused by intent or gross negligence on the part of the dealer/repairer.
2. If and insofar as the dealer/repairer is subject to any liability, this liability will at all times be limited to the value of the performance, which will be determined on the basis of the invoice relating to the underlying agreement. Any liability will in any event be limited to the amount paid out by the dealer's/repairer's insurer in respect of the liability.
3. The dealer/repairer accepts no liability for deliveries and work subcontracted by it to third parties at the request of the buyer/client.
4. The buyer/client indemnifies the dealer/repairer against all claims from third parties who claim to have suffered damage due to an item and/or a service which the dealer/repairer delivered or provided to or on behalf of the buyer/client. The buyer/client will compensate the dealer/repairer for all damage (including costs) suffered by it as a result of or in connection with such third-party claims.

Article 10: Non-compliance, warranty

1. With regard to purchase, repair and/or maintenance, the buyer cannot invoke any rights on the grounds of non-conformity within the meaning of Book 7 of the Dutch Civil Code.
2. Deliveries of new vehicles and/or parts are only covered by the warranty provided by the manufacturer or importer on these items.
3. Deliveries of used vehicles and/or used parts are covered by warranty only insofar as agreed in writing.

Article 11: Repair and BOVAG repair and maintenance warranty

1. The performance of the agreement involves the use of new parts or, where this is customary with regard to a particular part, exchange parts. The dealer/repairer will use good quality parts. Replaced parts will only be made available to the buyer/client if this has been expressly agreed. In all other cases, the replaced parts will become the property of the dealer/repairer, without the buyer/client being entitled to any compensation.
2. If after performance of the dealer/client's commissioned work and notification thereof to the buyer/client, the vehicle in question has not been collected within two weeks of notification, the dealer/client will be entitled to charge storage costs in accordance with the rate applied by the dealer/repairer or locally. The risk of damage and/or loss of the relevant vehicle and/or part after notification will be borne by the buyer/client.
3. The dealer/repairer guarantees the proper execution of the orders it has taken on or outsourced for a period of three months up to a maximum of 25,000 km, counting from the time the commercial vehicle has been made available to the buyer/client again.
4. In respect of the work mentioned in paragraph 3, the buyer/client will receive an itemised bill.
5. The warranty includes the repairer's proper performance, at its expense, of any assigned work that was not properly performed. If, in the dealer's/repairer's opinion, subsequent performance is not no longer possible or useful, the buyer/client is entitled to reasonable compensation in lieu thereof to a maximum of the amount of the original faulty repair, unless the buyer/client proves that the damage is the result of intent or gross negligence on the part of the dealer/repairer.
6. The warranty applies within the European Union, unless the buyer proves that defects occurring elsewhere were not caused by conditions there that differ from those in the European Union (inferior roads, inferior fuels, etc.).
7. No warranty is provided on requested emergency repairs. Also excluded from warranty:
 - defects in materials or parts prescribed or provided by the buyer/client;
 - defects resulting from designs, drawings, constructions or working methods provided by the buyer/client or advice given by the buyer/client;
 - deviations in the colour or quality of the paint coat considered permissible or unavoidable in the industry.
8. Claims under the guarantee lapse if:
 - a. the buyer/client does not notify the dealer/repairer immediately after discovering the defects;
 - b. the dealer/repairer is not given the opportunity to remedy the defects, unless it authorises repairs elsewhere;
 - c. third parties have, without the dealer's/repairer's prior knowledge or consent, carried out work related to the work carried out by the dealer/repairer in respect of which a warranty claim is made, unless the necessity for immediate repair arose elsewhere and can be demonstrated on the basis of information provided by the other repairer. If repair takes place in the Netherlands, that repairer must also be a BOVAG member;
 - d. the commercial vehicle is being used improperly, which includes:
 - overloading;
 - use of fuels and oils other than those appropriate for the vehicle;
 - improper control and/or use of vehicle;
 - operating instructions or maintenance instructions have not been followed.
9. The provisions of paragraph 8 under b. and c. above do not apply if recovery abroad is necessary. In that case, reimbursement of the cost of the necessary repair will take place on the basis of the price level as it applied in the repairer's company.
10. Warranty repairs carried out on the basis of paragraph 3 of this article will be guaranteed again under the same conditions as mentioned therein.
11. Within the scope of the BOVAG Maintenance Warranty, the buyer/client can put in a written request for mediation by BOVAG Bemiddeling (PO Box 1100, 3980 DC BUNNIK) in respect of disputes if they have submitted their complaint to the repairer within the period mentioned in paragraph 3.
12. With regard to exchange engines produced by the dealer/repairer and complete overhauls carried out by the dealer/repairer, the warranty provisions laid down under the BOVAG Overhaul Warranty and laid down in the BOVAG Overhaul Warranty Certificate issued will apply. With regard to exchange engines manufactured by third parties or overhauls carried out by third parties, only the warranty provisions stipulated by these third parties will apply.

Article 12: Force majeure

1. The dealer/repairer is not obliged to fulfil any obligation if the dealer/repairer is prevented from doing so as a result of a circumstance that is not due to its fault, or for which it is not liable under the law, a juristic act or generally accepted practice.
2. If, due to force majeure or other extraordinary circumstances such as (but not limited to): non-delivery, incomplete and/or delayed delivery by the factory/importer, war and war risk, full or partial mobilisation, import and export bans, measures of Dutch and/or foreign government bodies which make the performance of the agreement problematic and/or more costly than could be foreseen at the time the agreement was concluded, frost, strikes, epidemics, traffic disruptions, loss or damage during transport, fire, theft, etc., either at the dealer/repairer or at its supplier, the dealer/repairer is not able to fulfil its obligations under the agreement or is unable to do so in time, the dealer/repairer will be entitled to perform that which has been agreed upon within a reasonable period, or – if performance within a reasonable period is not possible – to declare the agreement terminated in full or in part.
3. The buyer/client will not be entitled to terminate the agreement in the event of force majeure or other extraordinary circumstances during the first six months that this state of affairs continues. The buyer/client is under no circumstance authorised to claim damages.

Article 13: Suspension, lien, pledge, set-off, termination

1. If the buyer/client fails to fulfil one or more of its obligations under this and other agreements concluded between the parties, or fails to do so in time or in full, the dealer/repairer will be entitled, without further notice of default or judicial intervention and without being obliged to pay any compensation, to suspend the performance of the relevant agreement in full or in part and/or to terminate the relevant agreement in full or in part, without prejudice to all other rights to which the dealer/repairer is entitled.
2. The dealer/repairer is at any time entitled, including during the performance of an agreement, to suspend the fulfilment of its obligations until the buyer/client has, at the dealer's/repairer's request and to its satisfaction, provided security for the fulfilment of all its obligations under this agreement and other agreements concluded

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- between the parties. If the buyer/client fails to provide satisfactory security within ten working days of the dealer's/repairer's request, the dealer/repairer may terminate the agreement by registered letter without judicial intervention and the buyer/client will be obliged to pay for the work already carried out by the dealer/repairer.
3. The dealer/repairer is (without prejudice to all other rights) entitled to retain all goods of the buyer/client that the dealer/repairer has in its possession at the buyer/client's expense and risk, until the claims relating thereto, as well as all other claims which the dealer/repairer has against the buyer/client, have been paid in full, unless sufficient security is provided for payment of the claims and payment is not delayed as a result.
 4. The buyer/client is not entitled to refuse or suspend the fulfilment of its payment obligation on the grounds of alleged defects or for any other reason.
 5. By bringing goods under the control of the seller/repairer, the buyer/client establishes a pledge on these goods for all that it owes or will owe to the seller/repairer, on any account whatsoever. In any case, this includes claims under agreements that have not yet been settled. They hereby agree that the dealer/repairer as pledgee may convert the said possessory pledge into a non-possessory pledge by registering the agreement in force between them together with a copy of these conditions as a private deed.
 6. The dealer/repairer has the right at all times to collect all possible debts and obligations of one or more companies belonging to the Loven companies as well as the sister company Groothandel Truck Onderdelen (G.T.O.) B.V.
 7. The buyer/client is not authorised to set off.
 8. The dealer/repairer may, in addition to its other rights, terminate the agreement with the buyer/client with immediate effect at any time and without further notice of default or judicial intervention and without any liability to pay damages to the buyer/client if the buyer/client is deemed unable to meet its due debts, if the buyer/client fails to pay its due debts, becomes insolvent, if the buyer/client applies for a moratorium, if the buyer/client discontinues its business and/or if the assets of the buyer/client are seized and this seizure is not lifted within 30 days after the date of seizure or if the buyer/client otherwise loses control of (part of) its assets.

Article 14: Trade-in sales

1. If, when selling a new commercial vehicle against trade-in of a used vehicle, the buyer/client continues to use the old vehicle pending delivery of the new vehicle, the latter vehicle will not become the property of the dealer/repairer until its actual delivery to the dealer/repairer has taken place.
2. During this use, all costs, with the exception of those of maintenance and possible damage from whatever cause including as a result of loss, including not (or not being able to) return the complete vehicle registration certificate, will be at the expense and risk of the buyer/client.
3. Upon actual delivery of the vehicle to be traded in, it must be in the same condition as at the time of valuation. If the vehicle to be traded in is no longer in the same condition as at the time of the valuation, the dealer/repairer is entitled to refuse the trade-in vehicle and demand payment of the agreed purchase price of the vehicle, or to revalue the vehicle to be traded in.
4. Upon actual delivery, the vehicle to be traded in must have a valid Part 1 and Part 2 registration certificate and a transfer certificate or Part 1A, Part 1B and Part II. If one or more of the above papers are missing, the dealer/repairer reserves the right to charge the buyer for obtaining a new registration certificate and the related depreciation in value.

Article 15: Retention of title

1. As long as the buyer/client has not made full payment of all delivered goods to the dealer/repairer and/or has not otherwise fulfilled all its obligations under the agreement concluded with the dealer/repairer, the dealer/repairer will retain the title to all delivered goods, while the delivered goods will be at the risk and expense of the buyer/client.
2. The buyer/client is only entitled to use the goods for its normal business purposes.
3. The buyer/client is not entitled to pledge the unpaid or incompletely paid goods and/or to transfer ownership, possession or possession of the goods to others, or to transfer or encumber the goods in any other way as a result of which the buyer/client would acquire rights to the goods; furthermore, in the event of late payment, the buyer/client will be obliged to return the purchased goods to the dealer/repairer on demand, and the dealer/repairer may retain possession of these goods until the buyer/client has fulfilled its payment obligation, without prejudice to the dealer's/repairer's right to repossess and otherwise dispose of the goods. In the event of final repossession by the dealer/repairer, the buyer/client will be credited for the market value, which may under no circumstances exceed the original purchase price, less the costs incurred on repossession.
4. If the dealer/repairer deems this necessary in addition to the retention of title, an undisclosed pledge will also be established subject to retention of title in respect of all claims which the dealer/repairer may have against the buyer/client, on the suspensive condition that the retention of title will be transferred to the buyer/client.
5. As long as the payment obligation based on purchase has not been fulfilled in full, the buyer/client will ensure full liability and hull insurance of the vehicle. The buyer/client will allow the dealer/repairer to inspect the insurance policies upon request. The buyer/client hereby pledges to the dealer/repairer all rights which it could invoke against insurers as additional security as mentioned above. The dealer/repairer hereby declares that it accepts this pledge.

Article 16: Recall

If the dealer's/repairer's attention is drawn to a defect in a commercial vehicle or new part delivered by the dealer/repairer that results in a so-called recall action by the manufacturer/importer, the dealer/repairer will immediately notify the buyer/client in writing. If the buyer/client does not immediately turn to the dealer/repairer after the written notification, all possible claims of the buyer/client on that account may lapse. This means that neither the dealer/repairer nor the manufacturer/importer will be liable for any damage suffered and to be suffered by the buyer/client as a result, expressly including but not limited to any consequential damage.

Article 17: Conversion

If any provision of these general terms and conditions is at any time found to be invalid or in any way unenforceable because of any existing or future rule of law, law, designation, directive, or regulation applicable to the parties, the remainder of these general terms and conditions will remain in force. In such a case, the parties agree to amend the current general terms and conditions so as to bring the relevant provisions back in line with the applicable regulations with which they were in conflict, taking into account the overall balance of mutual rights and obligations as existing before such a situation occurred.

Article 18: Personal data processing

1. Buyer data will be processed by the dealer/repairer. The dealer/repairer is also entitled to make this data available to third parties. As far as personal data processing is concerned, this involves processing operations within the meaning of the General Personal Data Protection Act. On the basis of this processing, the dealer/repairer can perform the agreement, fulfil warranty obligations to the buyer, provide optimal service, provide the buyer with timely product information and personalised offers. If it concerns the processing of personal data for the purpose of direct mailing, any objection to be lodged by the buyer with the dealer/repairer will be honoured.
2. Marketing activities surveys: The customer agrees that DAF (and its subsidiaries), as the manufacturer of the truck(s), may use the contact details that the customer provided to the DAF dealer during the purchase process to inform the customer about DAF products and services that DAF believes may be of interest to the customer. In addition, DAF may contact the customer to conduct a customer satisfaction survey. If the customer does not wish to receive the aforementioned information or satisfaction surveys, the customer can notify DAF and/or the DAF dealer. Upon receipt of this notification, DAF and the DAF dealer will no longer use the information for these purposes.

Article 19: Law/choice of forum

All agreements and any other legal relationships between the dealer/repairer and the buyer/client are governed by Dutch law, to the exclusion of the 1980 United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) or any future international regulation on the sale of goods. Without prejudice to the provisions of Article 6 concerning the maintenance guarantee, disputes will be adjudicated by the Dutch court that is competent under Dutch law.