

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF BAS MINING TRUCKS B.V. (2021)

Registered with the Chamber of Commerce of Brabant under number 17266443.



ARTICLE 1 DEFINITIONS

- 1.1 BAS Mining Trucks B.V. and its affiliated operating companies as well as its legal successors under a universal title are the users of these general terms and conditions and will hereinafter be referred to as "we" and "us".
- 1.2 "The counterparty" and/or "the client" means any (legal) person we address our offers to, as well as the party that addresses offers to us and the party that grants an assignment to us, i.e. the party we enter into an agreement with and also the party we have any legal relationship with, as well as its representative(s), authorised representative(s), assignee(s) and heir(s).
- 1.3 "Products" and/or "vehicles" means all products and/or (second-hand) vehicles, means of transport, trucks (components), parts, etc. supplied to the counterparty under these general terms and conditions, as well as the performance of services and activities (including repair work) and/or the provision of advice by us to the counterparty.

ARTICLE 2 APPLICABILITY

- 2.1 These general terms and conditions apply to all our offers, agreements, agreements for services (for the performance of activities by us) as well as all legal acts, deliveries and activities performed by us, legal relationships to be entered into with us concerning, among other things, the sale of new and used (company) vehicles, trucks, truck components, means of transport, parts and accessories as well as the adjustment and production of chassis and cabins, the design and production of components, carrying out repairs, maintenance and other work on the products and/or vehicles.
- 2.2 Deviations from and supplements to these terms and conditions are only binding on us if agreed upon in writing.
- 2.3 If one or more provisions of these general terms and conditions appear to be in breach of the law, the remaining provisions of these general terms and conditions shall remain in full force and effect.
- 2.4 In case of any discrepancies between the contents of the agreement concluded between the counterparty and us and our terms and conditions, the provisions of the agreement shall prevail.
- 2.5 Where we do not always require strict adherence to these terms and conditions, this does not mean that the relevant provisions do not apply or that we would anyhow lose the right to require strict adherence of the provisions of these terms and conditions in other cases.

ARTICLE 3 OFFERS

- 3.1 All our offers and quotations are without obligation, unless they contain a deadline for acceptance, in which case the offer expires after this period.
- 3.2 Any changes and/or promises made after the offer, whether made verbally or in writing by us, shall constitute a new offer, as result of which the previous offer has expired.
- 3.3 If any acceptance by the counterparty deviates from the offer, this shall be regarded as a new offer by the counterparty and as a rejection of our entire offer, even if the deviation relates to minor aspects only.
- 3.4 All offers and quotations are based on the performance of the agreement by us under normal circumstances and during normal working hours, unless expressly stated otherwise in writing.
- 3.5 If we submit a quotation for hours to be spent on the repair to be carried out, such quotation shall be deemed to be an estimate only. We may charge additional hours.

- 3.6 All data included in publications/advertising material are subject to change and without obligation. We cannot guarantee the correctness, completeness or timeliness of such data, including (vehicle) specifications, emissions, fuel consumption, etc. The client cannot derive any rights from catalogues and other pre-printed information or any mistakes in such catalogues and information.

ARTICLE 4 CONCLUSION

- 4.1 The agreement is concluded, where applicable within our period of acceptance, upon our receipt of a written acceptance of an offer. If the counterparty makes an offer and/or issues an assignment, the agreement is concluded upon approval and confirmation in writing by us of the offer and/or assignment or upon commencement of the performance of the assignment by us.
- 4.2 Due to legislative requirements we are obligated to conduct an investigation with regard to the identity of the counterparty and the source of its funds. We reserve the right to terminate the agreement(s) if upon the aforementioned investigation, we, at our sole discretion, conclude that there is any doubt or uncertainty regarding the identity and/or source of funds of the counterparty or a third party acting on behalf of the counterparty. Any (advance) payments received by us from or on behalf of the counterparty will be returned.
- 4.3 Any supplementary agreements, modifications and/or promises made after the agreement, whether made verbally or in writing by our staff, representatives, sales staff or other agents, are not binding, unless confirmed by us to the counterparty in writing.
- 4.4 Orders placed through intermediaries, including agents, representatives or resellers, are only legally binding after we have confirmed them in writing. Verbal agreements and stipulations are binding only after they have been confirmed in writing by us by the persons authorised thereto.

ARTICLE 5 EXECUTION OF WORK

- 5.1 The execution of repair work is based on the complaints notified by the counterparty. If no clear description of complaints is available, the defects identified by us will be remedied.
- 5.2 The period for the work to be carried out can only be indicated approximately and shall never be considered to be a deadline, unless expressly agreed in writing.
- 5.3 As soon as we are aware of facts and circumstances that prevent or complicate the execution of the work within the specified period, we will notify the counterparty of the expected new period.
- 5.4 During the execution of the work, we are obliged to look after the vehicle on which the work is carried out with all due care.
- 5.5 If the counterparty or a third party acting on its behalf transfers a vehicle in view of having work carried out, it is the responsibility of the counterparty to transfer the vehicle in a clean condition, as well as to remove all personal belongings and any other items not forming part of the vehicle and to inform us of any freight or other factors that may pose a hazard to persons or items, or which may affect the execution of the work on the vehicle.
- 5.6 If a vehicle is received from the counterparty for work at our site, any trailer or semi-trailer, including any freight or content, will be received, driven, towed, transported or stored at the counterparty's risk. The counterparty is reminded of the relevance of making sure that its own insurance provides any required cover.

ARTICLE 6 DATA AND INFORMATION

- 6.1 We are only obliged to execute the assignment (further) if the counterparty has provided all data and information requested by us in the form and in the manner required by us. Additional costs arising from the fact that the counterparty did not, or did not timely or not properly, provide the requested data and information will be borne by the counterparty.
- 6.2 The counterparty is obliged to inform us promptly of facts and circumstances that may be relevant in relation to the performance of the assignment.
- 6.3 The counterparty guarantees the correctness, completeness and reliability of the data and information provided to us by it or on its behalf.

ARTICLE 7 PERFORMANCE OF THE ASSIGNMENT

- 7.1 We determine the manner in which the assignment is performed and by which persons, while taking the wishes expressed by the counterparty into account as far as possible.
- 7.2 We will carry out the work to the best of our abilities and with all due care; however, we cannot guarantee the achievement of any intended result.
- 7.3 Timeframes for the completion of work are only final deadlines if expressly agreed in writing.
- 7.4 Unless it is established that performance of the assignment is permanently impossible, the agreement cannot be dissolved by the client on the ground that a time limit has been exceeded, unless we also fail to perform the agreement in part or in full within a reasonable period imposed on us after the end of the agreed delivery time.

ARTICLE 8 PRICES

- 8.1 The prices quoted by us are net prices and are exclusive of VAT and other government charges and/or third-party charges with regard to the sale and/or delivery and/or performance of the agreement and are based on delivery from our business location, except as otherwise agreed in writing.
- 8.2 The prices quoted by us are in euros or in another currency agreed by us; any exchange differences are at the counterparty's risk, unless otherwise agreed in writing.
- 8.3 The prices quoted by us are based on the daily and/or hourly rates and specifications applicable at the time of the conclusion of the agreement and on the performance of the agreement under normal circumstances.
- 8.4 We reserve the right to charge a proportionate price increase to the counterparty if, after the conclusion of the contract, an increase occurs in one or more price-determining factors and/or statutory levies, including labour costs, contributions, materials, and exchange rate fluctuations.
- 8.5 The provisions of Article 8.4 also apply if the changes to the price-determining factors referred to are the result of circumstances that were already foreseeable at the time of conclusion of the agreement.
- 8.6 If the application of Article 8.4 leads to a price increase of 20% or more and the price increase does not result from the law, the counterparty has the right to dissolve the agreement by registered letter within one week after we have announced the increase of the agreed price.
- 8.7 If not expressly agreed otherwise in writing, delivery costs, service costs and costs for transport and shipping, etc., are never included in our price. Unless otherwise agreed in writing, the workshop rates do not include the costs of materials, parts, and any third-party costs.
- 8.8 Price increases resulting from additions and/or modifications to the agreement are for the account of the counterparty.
- 8.9 Costs incurred as a result of the counterparty failing to allow the performance of the agreement and/or because circumstances arise that are attributable to the counterparty, as a consequence of which our costs have arisen, are charged by us to the counterparty.

ARTICLE 9 DELIVERY

- 9.1 Delivery times are determined by mutual agreement, however, delivery times and/or delivery dates specified by us will never be considered final deadlines, unless otherwise agreed in writing. In the event of late delivery and/or completion, we require to be given a notice of default in writing, stating a reasonable period of time for performance. In any case, a reasonable period of time shall be the time considered reasonable in the industry.
- 9.2 If exceeding the delivery period is not attributable to us, the counterparty cannot claim compensation or dissolution of the agreement.
- 9.3 The stated delivery dates and/or dates for completion are based on the working conditions applicable at the time of conclusion of the agreement and the timely delivery of the materials and/or parts ordered by us for the performance of the agreement.
- 9.4 Unless otherwise agreed in writing, delivery will take place EX WORKS (Incoterms 2020) at our business premises in Veghel, The Netherlands.
- 9.5 If we are responsible for transport/shipment of the goods, at request of the other party, or if the agreed parity of the ICC INCOTERMS lays this responsibility on us, the time, method of transport/shipment and route shall be at our discretion. The concerned (transport) insurance shall be effected by us only at the express request of the other party; all related costs are to be borne by the latter.
- 9.6 The counterparty is obliged to take receipt of the goods or services delivered by us at the time of delivery as indicated by us with at least two weeks prior notice, failing which will result in the counterparty being in default immediately. Consequently, we will store the goods at the expense and risk of the counterparty. All resulting costs (including the costs of delivery, storage, insurance and garaging) and damage, in total amounting to a fixed 0,15% of the gross sales value of the product and/or vehicle per week (hereinafter: the "storage charge"), will be charged to the counterparty.

ARTICLE 10 CANCELLATION

- 10.1 The counterparty is entitled to cancel the orders placed. A notice of cancellation must be given in writing before the agreed delivery date. The counterparty is obliged to pay us a cancellation fee equal to the cancellation fee as referred to in article 12.2 and, if applicable the storage charge as referred to in article 9.6.
- 10.2 Uncollected orders may be re-offered to the counterparty. In that case, the invoice amount will be increased by the costs incurred, including storage costs.

ARTICLE 11 RISK

- 11.1 The risk of the products and vehicles sold will transfer from us to the counterparty at the time of delivery. In case of the sale of a vehicle, the counterparty is obliged to insure the vehicle from the moment of delivery.
- 11.2 The ownership of the products sold will transfer from us to the counterparty after delivery and after the counterparty has paid the full purchase price and fulfilled any further obligations towards us under the agreement.
- 11.3 During the period in which the ownership of a vehicle has not yet transferred to the counterparty in accordance with Article 11.2 although delivery has already taken place, the counterparty shall keep the vehicle insured under a third-party liability insurance and comprehensive insurance, and it is not permitted to alienate the vehicle, encumber, pledge, rent, lend or otherwise provide the vehicle to third parties or to provide it to third parties as a security. The counterparty will indemnify us against third-party claims on the vehicle during the aforementioned period.
- 11.4 The vehicles offered for repair by the counterparty must be delivered to us. The transport of these vehicles takes place at the expense and risk of the counterparty.

- 11.5 The vehicles to which works are performed by us at the request of the counterparty are located at or in the vicinity of our sites at the risk of the counterparty. The counterparty states that it or the party entitled has, in respect of the vehicle concerned, made sure that the vehicle is adequately insured – even when it is located in the vicinity of our premises – both under the statutory liability for motor vehicles and for damage, theft and other forms of pecuniary disadvantage in relation to the vehicle. The counterparty indemnifies us against all claims of third parties in this respect.
- 11.6 The client shall not be engaged in reselling and shall not represent itself as an (authorised) reseller of new vehicles. This means, in particular, that all new vehicles are sold by us under the express condition that the client will not resell the vehicle for commercial reasons in new condition, nor enter into a lease agreement providing for a transfer of ownership or an option to purchase the vehicle before the expiry of the agreement.

ARTICLE 12 PAYMENT

- 12.1 For offers and agreements concerning the sale/purchase of vehicles, unless otherwise agreed in writing, the counterparty is obligated to make a first down payment of 15% of the gross sales value, within one week after conclusion of the agreement. The counterparty is obliged to make an additional down payment of 35% of the gross sales value at the time of delivery of the concerned vehicle(s) from the manufacturer to BAS Mining Trucks. If other (advance) payment percentages were agreed upon, those percentages shall be regarded as if referred to in this article. At all times the full payment must be made before delivery of the goods. We shall inform the counterparty of the delivery times and due dates with at least two weeks' notice.
- 12.2 In the event of failure of a payment within the relevant due dates as referred to in article 12.1 and/or the concerned agreement(s), and the subsequent expiry of the due date as mentioned in our notice of default, we are entitled to dissolve the agreement(s) and/or charge a cancellation fee to the counterparty, to the amount of 15% of the gross sales value, as compensation for the costs incurred by us. This cancellation fee may be withheld and setoff with the (down) payments made by the counterparty.
- 12.3 With regard to other offers/agreements as referred to in article 12.1, in the event of the failure of payment within the concerned due date(s), an interest shall be payable pursuant to Book 6, article 119a in conjunction with Book 6, article 120 of the Dutch Civil Code, or the statutory interest if this is higher, whereby part of the month applies as a full month, commencing on the first day following the expiry of the term of payment referred to in Article 12.1.
- 12.4 We reserve the right to charge any exchange rate differences by means of a proportionate price increase, should the counterparty fail to make any payment in a timely manner.
- 12.5 If any payment is not made in a timely manner, all of the counterparty's payment obligations, whether or not already invoiced, shall immediately be due and payable.
- 12.6 Payments made by the counterparty at all times serve to settle all penalty's, charges, interest and costs due and subsequently to settle the claims arising from the agreement which have been due and payable longest, even if the counterparty mentions that the payment is intended for the settlement of another claim.
- 12.7 Any payment discounts agreed in writing lapse if the payments have not been received within the agreed payment term.
- 12.8 The counterparty is not entitled to refuse or suspend the fulfilment of its payment obligation on the basis of alleged defects in the products/services and for any other reason whatsoever, unless the defect is acknowledged by us as such. In that case, the counterparty is entitled to suspend a payment of up to 15% of the amount owed for the product concerned until the defect has been remedied.
- 12.9 BAS Mining Trucks and its affiliated companies including BAS Mining Trucks Peru S.A.C. (RUC No.: 20601739471), BAS Lease B.V. (CoC no. 16077239), BAS Rent B.V. (CoC no. 17215693), BAS Trucks B.V. (CoC no. 17103220), FleetcareXL B.V. (CoC no. 56198957), BAS Truck Center B.V. (CoC no. 16021586), Parts Company B.V. (CoC no.

17221169) and BTS GmbH & Co. KG (HRA no. 17922), are entitled to offset any claims that we owe to the counterparty with claims that the counterparty owes to us, and to invoke a right of suspension with regard to (one or more of) such claim(s), also if this such claim(s) arises from another agreement and/or legal relationship. BAS Mining Trucks and its affiliated companies, including but not limited to the aforementioned companies, and the counterparty agree (if necessary as a third party clause) that the right to offset has been extended and that therefore reciprocity is not necessary for the offsetting of claims.

- 12.10 The counterparty is not allowed to offset its payment against any claims that the counterparty claims to have on us.
- 12.11 In the event of liquidation, insolvency, bankruptcy or moratorium on the part of the counterparty, the claims, for whatever reason (including those of the parties referred to in Article 12.9), shall be immediately due and payable by the counterparty.

ARTICLE 13 SUSPENSION AND RIGHT OF RETENTION

- 13.1 We are entitled to suspend our performance (including future partial deliveries) if the counterparty fails to fulfil one or more of its obligations or if any circumstances that we have become aware of give us good grounds to fear that the counterparty will not fulfil its obligations, except for mandatory legal provisions to the contrary.
- 13.2 We may exercise the right of retention on all matters of the counterparty to which the performance of the agreement relates and which we actually are in possession of under the agreement, if the counterparty wholly or partly fails to fulfil the obligations related to the performance of the agreement, or other agreements concluded with the counterparty.
- 13.3 We are entitled to claim the damage (including lost interest) we have suffered and the costs we have had to incur in relation to the care of the matters which we actually are in possession of, from the counterparty.

ARTICLE 14 COMPLAINTS

- 14.1 Any complaints relating to vehicles supplied by us (including quality and/or size) as well as to work carried out and invoice amounts, must be submitted to us in writing with an accurate specification of the facts to which the complaints relate, within 8 working days after receipt of the vehicle, after completion of the work, or after receipt of the invoice respectively. In the absence of such notification, the counterparty is deemed to have approved and accepted the delivered goods without any reservation. The right to complain lapses by the (continued) use of the delivered goods.
- 14.2 If it is reasonably not possible to discover the defect within the aforementioned period, the counterparty must submit its complaint to us in writing within 8 working days after it discovers the defect, provided that the counterparty demonstrates that it could not reasonably have discovered the defect earlier. Complaints in respect of defects discovered can no longer be submitted after the expiry of the warranty period and, in the event of a lack of clarity about this, after the end of one year upon delivery.
- 14.3 Minor deviations or deviations that are customary in the industry and deviations in quality, number, size or finishing, as well as differences in the execution of the work, shall not form grounds for complaints.
- 14.4 Complaints relating to certain products or with respect to certain activities shall be without prejudice to any of the counterparty's obligations with respect to other products or parts of the agreement.
- 14.5 The products that have been complained about can only be returned if we agree to this in writing. Products that are tailor-made by us at the request of the counterparty cannot be returned unless we agree to this in writing. We reserve the right to charge the return costs to the counterparty.

- 14.6 Any complaints concerning defects will not be allowed if the products have been processed, or if these defects have not been reported within the above-mentioned time frames.
- 14.7 We shall be given the opportunity to inspect the products after the complaint is submitted, in which the counterparty shall provide its full cooperation. Complaints in respect of products that cannot be inspected by us cannot be submitted.
- 14.8 The counterparty can, in respect of us, not assert any claims regarding defects of products as long as the counterparty has any obligation towards us that has not yet been fulfilled, even if such obligation is not the equivalent of the complaint.

ARTICLE 15 WARRANTY

- 15.1 If and insofar as the quality of the products to be delivered has not expressly been agreed, the counterparty may only lay claim to the quality that is customary in the industry.
- 15.2 The parts and/or materials replaced or left behind after work on the vehicle or object become our property, unless the parties agree otherwise in writing. In that case, the counterparty must take receipt of these parts and/or materials immediately after the delivery or completion of the vehicle or object.
- 15.3 New vehicles shall be subject to the warranty as determined in our Warranty booklet. New spare parts and accessories shall only be subject to the warranty provided by the manufacturer, importer and other suppliers.
- 15.4 For used vehicles, a guarantee is only provided if and as stipulated in the agreement.
- 15.5 No warranty is provided on used parts and accessories.
- 15.6 We warrant the skilful execution of the agreed work for a period of 3 months from the moment the vehicle has been made available to the counterparty after execution of the work, up to a maximum of 25,000 kilometres or 800 working hours, whichever expires first.
- 15.7 Notwithstanding the foregoing, the warranty for performed works which we have a third party carry out in connection with the performance of the agreement is limited to the warranty that we can claim from such third party.
- 15.8 The warranty claims lapse if:
- We are not given the opportunity to remedy the defects;
 - Third parties have, without our prior knowledge or consent, carried out work related to the (the remedying of the) defect, with respect to which the warranty is invoked;
 - In case of improper use of the vehicle, including:
 - use for purposes other than normal use;
 - overloading
 - modifications to software (settings) with which the vehicle has been equipped if these are not permitted or supported by the law and/or the manufacturer;
 - use of wrong fuels and lubricants;
 - maintenance other than prescribed by us or the manufacturer of the vehicle;
 - incompetent driving, use and/or maintenance;
 - accident, insufficient maintenance including but not limited to exceeding the maintenance intervals.
 - If modifications have been made to the vehicle by or on behalf of the counterparty, unless this has been done in full accordance with our written instruction or after written consent has been obtained from us;
 - The counterparty fails to fulfil the agreed payment obligations or its other obligations under the agreement.
- 15.9 The counterparty is furthermore obligated to provide evidence that the subject of which the warranty claim and/or complaint is invoked, had sufficient and timely maintenance and the vehicle was not overloaded. The absence of such convincing evidence shall invalidate the right to claim warranty and/or compensation.
- 15.10 The warranty on work is limited to the re-execution at our expense of the original work carried out by us. The travel and/or transport costs to be incurred by us in relation to the execution of warranty work shall be borne by the counterparty. If we are of the opinion that the assignment has not been properly carried out and/or the

delivered goods do not perform properly, we will – at our discretion – repair or replace the goods, rectify the shortcoming, or apply a reasonable price reduction.

- 15.11 The warranty work carried out on the basis of this article shall be re-warranted under the same conditions.
- 15.12 The following items are excluded from the warranty:
- emergency repairs;
 - defects in materials or parts prescribed or made available by the counterparty;
 - defects resulting from the designs, drawings, constructions or procedures provided by the counterparty or advice given by the counterparty;
 - deviations in colour or quality of the polish which are considered permissible in the industry or that cannot be avoided.

ARTICLE 16 REGISTRATION AND CERTIFICATION

- 16.1 The counterparty must assess whether the registration, vehicle and export documentation present or to be delivered by us is sufficient for import or registration in the country of destination. We shall not be in any way responsible or liable in this respect.
- 16.2 Unless we explicitly state otherwise in writing, the vehicles and/or machines as offered by us do not have CE-marking, EPA certification, MSHA certification, BMW certification and/or other certifications. The counterparty should assess itself whether or not the vehicles may be used for its intended purpose(s), in the area(s) of its intended use and if the vehicles are compliant to local legislation. We are neither responsible nor liable for this.

ARTICLE 17 DAMAGE ASSESSMENT

- 17.1 If we have conducted a damage assessment on behalf of the counterparty, the counterparty shall be obliged to pay all related costs to us unless the counterparty orders us to repair the defect in question or the counterparty purchases a new vehicle from us following the assessment.

ARTICLE 18 SALE WITH EXCHANGE

- 18.1 If, in the event of the sale of a vehicle in exchange for a used vehicle, the counterparty continues to use the vehicle to be exchanged in anticipation of the delivery, the counterparty shall be obliged to look after the vehicle with all due care.
- 18.2 The ownership of the vehicle to be exchanged will only transfer to us at the moment we obtain the actual possession of this vehicle.
- 18.3 During the use referred to in paragraph 1 of this article, the risk for the vehicle shall be borne by the counterparty and all costs incurred, particularly of maintenance, and any damage caused by any cause whatsoever, also as a result of loss, including the situation that the valid complete vehicle registration certificate and/or certificate of registry, any other official documents and the complete set of keys are not or cannot be handed in, shall be borne by the counterparty.
- 18.4 If, in our opinion, at the time it is actually made available to us, the vehicle to be exchanged is no longer in the same condition as it was at the time the agreement was concluded, we are entitled to refuse the exchange and require payment of the agreed purchase price of the vehicle, or to re-value the vehicle to be exchanged and consider the actual value of the vehicle at such time.
- 18.5 If, in our opinion, the vehicle to be exchanged has defects which could only be found after the vehicle had effectively been supplied while according to objective measures it is an established fact that those defects were already present at the time of the conclusion of the agreement, the counterparty shall compensate us for the resulting loss. In this context, loss is taken to include the reduced value.

ARTICLE 19 RETENTION OF TITLE

- 19.1 Notwithstanding the actual delivery, the ownership of the products and/or vehicles shall pass to the counterparty only after it has fulfilled all our claims concerning the consideration for the

products delivered or to be delivered by us to the counterparty under this agreement or under any similar agreement, and/or the work also carried out or to be carried out for the benefit of the counterparty under any similar agreement, as well as in respect of the claims regarding default in the performance of such agreements.

- 19.2 During the period that the ownership of a vehicle has not yet passed to the counterparty in accordance with the provisions of paragraph 1 of this article but actual delivery has already taken place, the counterparty must maintain a third-party liability insurance and a comprehensive insurance for the vehicle and will not be allowed to alienate the vehicle, or encumber, pledge, rent, lend or otherwise provide the vehicle to third parties or to transfer the vehicle to third parties as a security. If the vehicle is sold or transferred to a third party, the claim arising from the resale of the vehicle in respect of the third-party purchaser shall be secured through an undisclosed pledge in advance on our behalf, and the counterparty hereby undertakes to cooperate in any registration thereof. In the event of accession and/or specification of products delivered and/or manufactured, a lien is established on the product of which our product has become a constituent. The counterparty will indemnify us against third-party claims on the vehicle during the aforementioned period.
- 19.3 During the period referred to in paragraph 2, the counterparty is obliged to return the products and/or sold vehicles to us in a good state of repair at our first request. If the counterparty fails to fulfil its payment obligations towards us or if we have good grounds to fear that it will fail to fulfil its obligations, we are entitled to take back the products delivered under retention of title at the expense of the counterparty.
- 19.4 The counterparty is obliged to keep the products delivered under retention of title with all due care and recognisable as our property.

ARTICLE 20 DISSOLUTION

- 20.1 If, despite a demand stating a reasonable time limit, the counterparty fails to fulfil any (payment) obligation resulting from any agreement concluded with us, or fails to fulfil them properly or in good time, as well as in the event of a suspension of payment, application for or granting of a moratorium, bankruptcy, guardianship order or liquidation of the counterparty's company, we are entitled to dissolve the agreement or part thereof, without notice of default and without judicial intervention.
- 20.2 The dissolution causes any existing claims to become immediately due and payable. The counterparty is liable for the damage suffered by us, including interest and lost profits. These damages, including the cancellation fee as referred to in article 12.2 and the storage charge as referred to in article 9.6 may be withheld and setoff with any (down) payments made by the counterparty.
- 20.3 If the situations described in the provisions of paragraph 1 arise and the counterparty enjoys an advantage that it would not have had in the case of proper performance, we are entitled to compensation for our damage to the amount of the value of this benefit.
- 20.4 Except insofar as provided for in these general terms and conditions, the parties waive the right to (cause to) terminate the agreement with us in whole or in part.
- 20.5 As far as legally possible, the parties moreover waive the right to (cause to) annul the agreement concluded with us in whole or in part or to claim a change in the consequences thereof in a court of law.

ARTICLE 21 FORCE MAJEURE

- 21.1 If a force-majeure situation delays or prevents the execution of the agreement, both we and the counterparty are entitled to dissolve the agreement in writing, without the other party being entitled to any claim for compensation.
- 21.2 Force majeure on our part includes any circumstance arisen beyond our control, preventing or delaying the normal performance of the agreement. In any case, the following situations apply as such circumstances resulting in force majeure:

- if the production or supply of a particular item is discontinued;
- if we have sold the counterparty a vehicle that is to be exchanged, and this vehicle cannot be delivered to the counterparty due to circumstances we are not responsible for;
- loss, damage and/or delay during and caused by transport, extreme sickness absenteeism by staff, actions/measures at the customs, including (temporary) closure of certain geographical areas, fire, theft, and other severe disruptions in our company or at our supplier.

- 21.3 If the manufacturer, importer or supplier makes (construction) modifications to a product, we reserve the right to supply the modified product, provided that the modified product has at least the normal properties for use as the original product, as well as the special properties for use, if and to the extent agreed in writing between us and the counterparty.

ARTICLE 22 LIABILITY

- 22.1 Except for intent or deliberate recklessness on our part or that of our managers (including managerial subordinates), our liability is limited to our warranty obligations as defined in Article 15 and we shall not be liable for any damage whatsoever, irrespective of whether that claim is based on a contract concluded with us, tort or otherwise.
- 22.2 If we are liable for damage, our liability shall at all times be limited to direct damage to goods or persons and never extend to any business damage or other consequential damage, including loss of income.
- 22.3 If we are liable for damage, our liability shall furthermore be limited to the price paid by the counterparty for the product or to an amount paid by the counterparty for the assignment, up to the current market value of the vehicle concerned.
- 22.4 If we believe there are reasons that prompt us not to apply the clauses set out in this article, our liability shall at all times be limited to such damage and to no more than the amount we are insured for or, given the practice customary in the industry, reasonably could have been insured for.
- 22.5 Any claim for compensation for damage and/or repair of the shortcoming and/or replacement of the item, on whatever account, shall expire at the earliest of the following times: if notification is not made in time or one year after delivery, installation or completion.
- 22.6 The counterparty is obliged to indemnify us and hold us harmless in respect of all claims by third parties for compensation of damage, costs or expenses for which our liability in these terms and conditions is excluded in respect of the counterparty.
- 22.7 We shall never be liable for damage caused by work related to the products that are not part of our normal work and which work is carried out by us by way of service at the explicit request of the counterparty. This work is done at the expense and risk of the counterparty. Nor are we liable for damage resulting from inaccuracies in free advice.
- 22.8 If this agreement concerns goods that we purchase or have purchased from third parties, our responsibility and/or liability is limited to the amount for which the supplier is responsible and/or liable in respect of us. This provision only applies insofar as the application of this provision is more favourable to the counterparty than the application of the above provisions.
- 22.9 We are not obliged to offer the counterparty replacement vehicles or to organise the transport of the vehicles, nor does the counterparty have a right to reimbursement of the costs of replacement transport.

ARTICLE 23 INTELLECTUAL PROPERTY RIGHTS

- 23.1 All intellectual property rights and/or rights in respect of intellectual products that we develop or use in the performance of the assignment, including advice, procedures, (model) contracts, systems, system designs etc. accrue to us, to the extent they do not already accrue to third parties.

23.2 Except with our explicit prior consent, the client is not permitted to reproduce, disclose or exploit the intellectual products or the recording thereof in data, whether or not together with or by engaging third parties.

ARTICLE 24 DATA PROCESSING

24.1 The data of the counterparty is processed by us and recorded in our systems. We are moreover entitled to provide this information to third parties. Where the processing of personal data is concerned, it concerns processing operations within the meaning of the "Algemene Verordening Gegevensbescherming". Personal data is only provided to third parties where necessary for providing the service or where there is a legal obligation to do so. Arrangements have been made with third parties to ensure that this data is not used for other purposes. Such processing operations enable us to execute the agreement, fulfil the guarantee obligations towards the counterparty, and provide the best possible service, provide the counterparty with product information and personalised offers in a timely manner. If it concerns the processing of personal data for the purpose of direct mailing, any of the counterparty's objections that we have been informed of will be accepted.

24.2 The client is aware that vehicles sold by us may be equipped with software systems that store information about the vehicle. The client expressly admits that this information is provided to the manufacturer of the vehicle and its affiliated companies for purposes of promotion, product development, aftersales and fault detection. The manufacturer will not disseminate this information to non-affiliated companies without the client's consent, unless the manufacturer is legally obliged to do so. The client shall ensure that, prior to the use of the vehicle, the drivers are aware of the existence of the software systems and/or obtain their approval for the use of the information stored by these systems, in accordance with the law. The manufacturer has no access to the personal data of the drivers. The location of the vehicle will only be registered if the driver activates the assistance button to contact the manufacturer's 24/7 emergency service. Within the framework of the product development, the client agrees that the parameters on the vehicle can be remotely updated by the manufacturer. The client ensures that any new owner or user of the vehicle accepts the provisions of paragraph 2 of this article as if this new owner or user himself were the client.

24.3 We will pass on the personal data of the client or of the driver of the vehicle specified by the client to the Dutch National Vehicle and Driver Licence Registration Authority (RDW), which in turn will pass it on to Stichting Rai Data Centre (RDC). RDC will include this data in the central database of the automotive sector in the Netherlands. The data in the central database is used by RDC to send the notices for the periodic inspection and for recall actions by the manufacturer or the importer.

If the client does not wish to be included in RDC's records, RDC can be notified in writing, Postbus 74707, 1070 BS in Amsterdam.

24.4 Further information about the processing of personal data can be found in our privacy policy on the website www.basminingtrucks.com/en/privacy.

ARTICLE 25 SANCTIONS

25.1 The counter party declares that it will not resell the goods purchased from BAS Mining Trucks to parties listed on the EU sanction lists and/or the OFAC Specially Designated Nationals And Blocked Persons List (SDN).

ARTICLE 26 APPLICABLE LAW AND COMPETENT COURT

26.1 The provisions of the Vienna Sales Convention do not apply, nor do any (future) international rules on the sale of moveable property, the effect of which may be excluded by the parties.

26.2 All agreements to which these general terms and conditions apply in whole or in part are governed by Dutch law.

26.3 All disputes arising from or related to the agreement shall only be submitted to the competent court in the district of our place of business, insofar as this is not contrary to mandatory provisions, unless we, as claimant or applicant, opt for the competent court of the counterparty's place of residence or place of business.

26.4 In the event of an (imminent) dispute, we are entitled to (have one or more experts) conduct an expert's assessment at the counterparty.