

# GENERAL CONDITIONS OF SALE OF GRITCO EQUIPMENT BV

## Article 1 - General

1.1. All agreements of purchase and sale in the broadest sense of the word, including all agreements or clauses in agreements pertaining to the transfer of property are exclusively governed by the following conditions.

1.2. These conditions also apply, in as far as necessary mutatis mutandis, to all (agreements or clauses in agreements pertaining to) maintenance, installation or repair work and other services in the broadest sense of the word and includes supervising (people who conduct) the work.

1.3. Derogation clauses only apply if the buyer and the seller have agreed this in writing, and shall only apply to the agreement subject to which they have been made, in all other respects the following conditions remain applicable.

1.4. In as far as applicable, in these conditions of sale the term 'machines' also includes supplied installations, equipment, parts, accessories and tools and all related goods, in the broadest sense of the word.

## Article 2 - Offers

2.1. All offers are without obligation. Seller is only under obligation, if the seller has accepted or confirmed an order in writing.

2.2. If no prior written acceptance of an order has occurred, such as with a sale from stock for example, then the purchase agreement is effected after the seller, wholly or partially, meets a request for delivery from the buyer, of if the seller sends a buyer, who is requesting delivery, an invoice.

2.3. The seller cannot be held for errors or deviations to pictures, drawings and indications of measures and weights, or any other specifications stated in official lists or advertising materials and with offers and/or order confirmations, unless these have serious effects on the capacity or proper functioning of the machines.

2.4. Pictures, drawings and so forth supplied by the seller will remain their property, and are not permitted to be copied, multiplied or made available to third parties without express permission.

## Article 3 - Complaints

3.1. The seller will not handle any complaints regarding used machines, unless agreed otherwise in writing, and in this respect the seller is not liable pursuant to any reason whatsoever. The provisions in paragraph 2 and 3 of this article exclusively pertain to new goods.

3.2. Without prejudice to the provisions in article 6, the seller is not obligated to handle complaints that are not submitted to him in writing within 14 days after the date of the invoice, or within eight days after receiving the goods, or, if the buyer could only reasonably discover this later, within eight days of discovering the defect.

3.3. A complaint concerning delivered goods cannot influence the rights and obligations of parties concerning previously delivered goods or goods to be delivered in the future, even if these goods are or will be delivered pursuant to the same agreement.

## Article 4 - Inspection

4.1. If it is agreed that buyer will check or inspect the goods at the seller's site or at the buyer's site or elsewhere or will have the goods checked or inspected, and the buyer has not made use of this within 10 working days, after he has been notified of the opportunity or he has been given the opportunity to do so, then the buyer is deemed to have definitively and unconditionally accepted the goods.

4.2. The costs of checking or inspection are that the buyer's expense.

## Article 5 – Assembly and commissioning

5.1. The purchase prices do not include the costs of assembly and commissioning.

5.2. If the seller has undertaken the assembly and putting into operation of the sold and delivered machines, then he only accepts liability with regard to the functioning of the machines, if:

- a. assembly and commissioning occurs in accordance with his directions, whereby he has the right to appoint a mechanic to supervise the work. Travel expenses and costs of accommodation, food and so forth for the mechanic will be at the buyer's expense.
- b. the circumstances (in the broadest sense of the word) on-site where the assembly and commissioning must occur do not have any adverse affect, and foundations, walls, and so forth on which and/or to which the machines must be set up or installed have been correctly fitted, constructed and/or repaired.

All additional work will be at the buyer's expense. Furthermore, the buyer, at his own expense, will provide the necessary assistance in the form of manpower or materials.

5.3. If, as a result of circumstances, and for reasons beyond the control of the seller, the mechanic cannot normally continue with the assembly and commissioning, then the arising costs will be at the buyer's expense.

5.4. Article 6 applies by analogy.

## Article 6 – Warranty and liability

6.1. The seller guarantees newly delivered machines for a period of six months after delivery or shipment, i.e. during this period he shall repair all parts to which a defect may occur pursuant to a faulty construction, free of charge, or shall replace the part (at the seller's discretion), if the seller is notified, in writing, of the defect immediately after its discovery and in any case within the periods stated in article 3, and in as far as desired by the seller, the part concerned will immediately be sent carriage paid. The warranty period will be shortened if the machines are in use more than 40 hours a week.

6.2. The above-mentioned warranty regarding repair or free delivery of a new part does not include statutory levies on the part to be shipped free of charge, or import duties and turnover tax; these will be at the buyer's expense. If a mechanic is required on behalf of replacing or repairing the defective part, then the normal costs will be charged for this.

6.3. If, during the warranty period, the buyer carries out any repairs or adjustments without the seller's prior permission, or if buyer instructs a third party to do this, or if buyer does not fulfil his payment obligations, then the seller's warranty obligation shall immediately lapse. The buyer is not entitled to refuse payment on the grounds that the seller has not, has not yet or has not fully complied with his warranty obligation.

6.4. The warranty applies in the place of any other liability for non-, improper, or untimely fulfilment by the seller, which is therefore expressly excluded.

The liability concerning non-compliance with the warranty obligations is limited to the costs of repair or replacement by a third party, the buyer shall not take such action prior to expressly giving the seller a notice of default, and giving the seller a reasonable period within which to still meet his warranty obligations.

6.5. Without prejudice to the provisions in paragraph 4, the seller shall never be liable for any indirect damage, such as, as a result of business interruption, operational delay or failure or any other operational loss pursuant to any reason whatsoever, or for direct or indirect damage, caused to or respectively due to the functioning or non-functioning or improper functioning of the delivered or altered goods or caused directly or indirectly by his personnel to goods and persons, irrespective of the good or person.

6.6. Without prejudice to the provisions in paragraph 4 and 5, any liability of the seller, pursuant to any reason whatsoever, including liability pursuant to these conditions, shall be limited to a maximum of the purchase sum of the individual good concerned, that was already paid by the buyer at the time of this claim.

6.7. In the event of a claim by a third party against the seller pursuant to or in relation with the (untimely or faulty or incorrect) delivery or functioning of a good, the limitation of the seller's liability applies as defined in paragraphs 5 and 6.

The buyer indemnifies the seller against any further liability towards third parties.

6.8. With the delivery of machines, the seller shall in as far as necessary and/or required, provide the buyer with directions, instructions and/or operating instructions with regard to their use and the purposes for which they can be used. The buyer is obligated to comply with these directions and/or instructions.

The seller may assume that, barring other written notifications from the buyer, buyer and his personnel or other people, who buyer directly or indirectly allows to work (or be situated) near or with the machine – in the broadest sense of the word – have sufficient command of the language in which these directions or instructions are formulated to take cognisance of them and to act accordingly, if the language is Dutch or English. Seller is prepared – in as far as possible – to provide these directions and instructions in another language, after receiving a written request to this end. Purchaser is obliged to pay the costs concerned.

## Article 7 - Amendments

An amendment to or cancellation of a purchase agreement requires the seller's written permission. If the buyer wants to amend or cancel the agreement entered into, then he is obliged to pay the seller all loss/damage, including loss of profit and all costs, arising from the amendment or cancellation.

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## Article 8 – Transport conditions

8.1. All goods, including goods sold under delivery carriage paid, will be transported at the buyer's risk. Third-party obligations do not have any effect on this and are deemed to be accepted at the buyer's account.

8.2. The seller has the right to store finished products which cannot be transported to their destination, for reasons beyond his control, at the buyer's expense and risk and to desire payment as if the delivery has occurred.

8.3. The choice of the means of transport is at the seller's discretion, this includes non-carried paid shipments, whereby the buyer has not provided shipping instructions. Obstructions or temporary impediments concerning the chosen means of transport do not oblige the hiring of another party. The seller is not responsible for any failures in/delays to the chosen means of transport, due to any reason whatsoever.

8.4. The seller reserves the right to effect the inward clearance of goods manufactured abroad with the exclusion of the buyer.

8.5. Unless the buyer gives the seller a timely request to have the goods insured at their expense during transport, the goods will be transported uninsured.

8.6. Unless agreed otherwise, the import and export duties, stamp, station and clearance charges, taxes etc. will be at the buyer's expense.

## Article 9 – Delivery periods

9.1. All agreed delivery times are approximate only. If the agreed delivery time is exceeded, then the buyer is authorised to give the seller a reasonable, further term of delivery, via a registered letter. If this term is also exceeded then the seller can be held liable for exceeding of the term.

9.2. The exceeding of the delivery term does not give the buyer the right to cancel the order or to refuse receipt or payment of the goods, nor does this oblige the seller in any way to compensate the buyer, or to deliver from stock, if the purchase is shipped from the factory.

## Article 10 – Force majeure

Force majeure is understood to mean all circumstances that can reasonably be considered to stand in the way of delivery or timely delivery of the sold products, including failure to deliver or untimely delivery to the seller by his supplier, and if the seller does not receive the goods purchased from his supplier or does not receive them on time, in which case it is at the seller's discretion to postpone or cancel the delivery of the purchase agreement.

## Article 11 - Price

11.1. The sales price stated by the seller is based on his purchase price and other cost factors. If any of the cost price components is increased after confirmation of the order but prior to delivery of the goods, then the seller has the right to charge on these increases to the buyer.

11.2. Without prejudice to the general applicability of this clause, this specifically applies to an alteration of the import or export duties or other duties or taxes after the shipment of the order confirmation has occurred, and to a change in the exchange rate of the Euro against that of the foreign currency in which the seller has purchased the goods.

## Article 12 – Payment conditions

12.1. Every agreement entered into by the seller is subject to the suspensive condition that the buyer proves to be creditworthy based on information gained by the seller.

12.2. During the execution of an agreement, the seller is authorised to suspend the fulfilment of his obligations, until the buyer at the request and to the satisfaction of the seller, has given security for the fulfilment of all his obligations arising from the agreement.

12.3. Unless agreed otherwise in writing, the payment must be made in cash without reduction upon delivery of the goods, irrespective of whether all or only part of the sold goods are delivered, or are reclaimed by the buyer. Setting off debts is not permitted.

12.4. If the buyer has not paid the outstanding purchase price, in as far as due and payable, then the seller is entitled to suspend the fulfilment of his obligations.

12.5. Without prejudice to the other provisions in this agreement, all goods delivered at any time will remain the property of the seller, until the payment of all the claims by the seller on the buyer, which fall within the scope of article 3:92 of the New Dutch Civil Code, pursuant to any reason whatsoever and irrespective of whether these are due and payable, including interest and costs – and including delivery on account, until the settlement of the balance in the seller's favour. Prior to payment and/or settlement in full, the buyer is not authorised to pledge goods to a third party or to transfer their ownership, this is

excluding non-fiduciary transfer of ownership in accordance with the normal destination of goods. In the event of a breach of this provision, including in the event of full or partial applicability of article 13, paragraph 1, the seller is entitled to repossess or recover all delivered goods, without requiring authorisation from the buyer or the court, or to have them repossessed from the place where the goods are located. Any claims from the seller on the buyer will remain fully due and payable.

12.6. From the day that payment should have occurred, the buyer must pay the interest on the outstanding amount, applicable on the expiry date, promissory note discount rate from the Nederlandse Bank, increased by 3.5%.

12.7. If the agreed payment term is exceeded by more than one month, the seller is authorised to charge the buyer the collection charges if the seller makes use of authorised persons or institutes to collect the claim, amounting to at least 10% of the purchase price.

## Article 13 – Breach of contract by the buyer

13.1. If the buyer does not, fully or timely meet his obligations, arising from this or any other agreement entered into with him, including if buyer is declared bankrupt and/or has requested bankruptcy, or if suspension of payment is requested, or if he decides to (partially) cease or liquidate his company, and/or if his possessions are attached in execution, then buyer is deemed to be in default by operation of law and the seller has the right, without giving notice of default, and without judicial intervention being required, at seller's discretion, and/or in any combination,

- to suspend the performance, of any, multiple or all obligations from his side with regard to the buyer, pursuant to any reason whatsoever, and/or

- even if agreed otherwise, to demand cash payment for every fulfilment from his side, and/or

- to wholly or partially dissolve the agreement(s), and/or to declare it/them dissolved, without seller being liable to pay any damages, or to fulfil any warranties or other obligations.

The above is without prejudice to the buyer's right to compensation for damage/loss, including loss of profit, costs and interest.

13.2. Complaints do not suspend the buyer's payment obligations.

## Article 14 - Disputes

All disputes arising from or as a result of a purchase agreement or any other related agreements, shall exclusively be submitted to the ordinary court in the seller's domicile, unless buyer and seller agree to submit the dispute for arbitration.

## Article 15 – Applicable law

Dutch law exclusively applies to all agreements of purchase and sale, and all related agreements, unless parties have expressly agreed the applicability of a foreign law in deviation of this provision.