



GENERAL CONDITIONS OF REFRADE SALES B.V.

1. General

For the purposes of these General Conditions Refrade shall be understood to mean Refrade Sales B.V.

2. General/application

- 2.1 The applicability of the other party's general conditions is expressly excluded.
 2.2 These General Conditions shall apply to all legal relations that Refrade enters into as seller or prospective seller and/or supplier of goods and/or services.
 2.3 These General Conditions may only be altered in writing.

3. Offers/Conclusion of Contract

- 3.1 All offers by Refrade shall be without any undertaking on its part.
 3.2 Samples, brochures, drawings or models etceteras shown or provided shall only be considered as indicative, without the goods supplied having to conform thereto.
 3.3 Orders shall only be binding if confirmed by Refrade in writing or if delivery has been effected. Verbal notifications shall only hold good if confirmed by Refrade in writing.
 3.4 The other party is aware that all equipment can be used or new equipment and is sold "as is". Unless otherwise stated in writing all equipment is sold in good working order.

4. Supplementation of Contract

- 4.1 Refrade shall at the other party's request, carry out any changes to the order suggested by the other party, provided these are reasonably practicable and Refrade shall have the right to make an extra charge therefore.

5. Prices

- 5.1 All prices shall be free on truck and exclusive of VAT ex Refrade's depot/warehouse, unless otherwise agreed in writing.
 5.2 Increases in among others wages or the cost price of raw materials or losses due to variations in the exchange rate, relating to the agreed performance, may be passed on, without surcharge, to the other party. The passing on of any such increases or losses within three months of the conclusion of the contract shall give the other party the right to rescind the contract on this ground.
 5.3 The other party agrees to assume exclusive liability for and to pay, indemnify and hold Refrade harmless from all sales or use taxes, transfer, title and registration fees, VAT, domestication, personal property taxes or any other taxes, tolls, levies, imposts, duties or governmental charges imposed in connection with the sale of equipment covered by this agreement, or any services rendered by Refrade in connection with this agreement, including any penalties, fines or interest thereon.

6. Delivery/term of delivery

- 6.1 The term of delivery agreed with the other party shall be considered an indication and not a deadline.
 6.2 Delivery shall take place free on truck ex Refrade's depot/warehouse. The other party agrees to pay all the transport costs, even if the carrier claims that the freight documents and the road waybills etceteras contain the clause that all damages of transport will be at the expense and risk of the shipper, i.e. Refrade. The other party indemnifies and holds Refrade harmless from all these costs. Deviation of the foregoing is only possible if confirmed by Refrade in writing.
 6.3 Refrade shall be entitled to carry out its performance in stages.

7. Payment

- 7.1 Refrade's invoice must be settled within the term of payment as stated in the invoice in a manner indicated by Refrade. Payment must be made effectively in the currency agreed upon and without any set-off, discount, or suspension.
 7.2 If any payment is overdue, all the other party's outstanding payments, notwithstanding whether Refrade has already submitted an invoice therefore, shall become immediately due and payable.
 7.3 If any payment is overdue, the other party shall be liable for interest at a rate equal to the legal interest rate plus 2,5% per annum.
 7.4 Extra-judicial collection costs shall be payable by the other party in conformity with the Dutch Bar Association's collection rates.
 7.5 Payments made by or on behalf of the other party shall be applied to the satisfaction of his obligations in the following order: extra-judicial collection costs, judicial collection costs, interest and outstanding principal amounts in order of the length of time they have been outstanding, regardless of any instruction to the contrary by the other party.
 7.6 The other party may only object to the invoice within 8 days after receipt of this invoice.

8. Retention of Title

- 8.1 Refrade shall retain title to the goods which have been supplied by it or are to be supplied by it, until the following have been fully satisfied:
 (a) the performance owed by the other party in connection with goods supplied or to be supplied under a contract or in connection with services rendered or to be rendered under such a contract;
 (b) claims arising from a breach by the other party in the performance of such a contract (or contracts);

The other party shall not be permitted to invoke a right of retention in relation to storage costs or to set off these costs against the performance of his obligations.

- 8.2 If the other party creates a new good out of or partly out of the goods referred to in paragraph 1, this new good shall be deemed to have been created at Refrade's behest and to be held by the other party on Refrade's behalf; Refrade shall remain the owner until such time as all the obligations referred to in paragraph 1 are discharged.
 8.3 Goods in which title remains with Refrade in accordance with the provisions of paragraph 1 and 2 may only be disposed of by the other party in the normal course of his business.
 8.4 If the other party is in breach of any of the obligations referred to in paragraph 1, Refrade shall be entitled to collect or have collected the goods owned by it from where they are located, at the other party's expense. The other party herewith, in advance, irrevocably authorises Refrade to enter or have entered for this purpose the premises used by or on behalf of the other party.
 8.5 The other party herewith pledges to Refrade, who accepts this pledge, all goods of which the other party becomes an owner or a co-owner through the creation of new goods from the goods supplied, through accession (by which the goods supplied are installed in or affixed to other goods), or through merger/fusion (by which the goods supplied are commingled or combined with the goods supplied), as security for all that which is owed or shall be owed at any time by the other party to Refrade.

- 9. Security**
- 9.1 If there is good reason to believe that the other party will not fulfil his obligations punctually, the other party shall be obliged, at Reftrade's first request, to provide, in the form desired by Reftrade, immediate and adequate security for the fulfilment of all his obligations, and to provide additional security if necessary.
- 9.2 For so long as the other party has not complied herewith, Reftrade shall be entitled to suspend the fulfilment of its obligations.
- If the other party has not complied with the request as referred to in paragraph 1 within 14 days after having received a demand letter to that effect, all his obligations shall become immediately due and payable.
- 10. Intellectual property and know-how**
- 10.1 All documentation, among others sales brochures, illustrations, drawings, etceteras which are made available by Reftrade to the other party shall remain Reftrade's property and shall, at Reftrade's first request, be returned immediately.
- 10.2 The other party is not entitled to employ the above for another purpose other than in connection with the goods to which they relate.
- 10.3 The other party shall not be entitled to disclose to third parties the documents referred to in paragraph 1 or any information contained therein of which he has acquired knowledge in any other way, unless Reftrade has expressly given its written consent thereto.
- 10.4 In the event of a breach of paragraph 2 and/or 3 the other party shall be liable for a penalty of EURO 22.689,- for each breach, without prejudice to any right of Reftrade to performance, rescission, damages, etceteras.
- 11. Complains, duty to inspect, limitation and performance**
- 11.1 The other party shall be under an obligation to inspect the goods upon delivery to determine whether they conform to the contract. The other party shall lose the right to invoke the non-conformity of the goods if he fails to notify Reftrade thereof in writing and giving reasons therefore as soon as possible and in any event within 24 hours after delivery or after the non-conformity could reasonably have been discovered.
- 11.2 Claims and defences based upon the alleged non-conformity of the delivered goods shall be time-barred upon the expiry of one year after delivery.
- 11.3 If the goods delivered do not conform to the contract, Reftrade shall, at its option, only be obliged to deliver the missing goods, or to repair or replace the delivered non-conforming goods.
- 11.4 The provisions set forth in this article are applicable as appropriate to the performance of services.
- 12. Figures, measurements, weights and further particulars**
- 12.1 Slight deviations in measurements, weights, figures, colours, and other particulars shall not be considered breaches.
- 12.2 Trade customs shall determine whether the deviations are slight.
- 13. Rescission/release**
- 13.1 If the other party does not, not timely, or not properly fulfil any obligation which has to be fulfilled by him under the contract, and also in the event the other party is declared bankrupt, granted an official moratorium, or is placed under a debt rescheduling arrangement or placed in a legal guardianship, or his business ceases operations or is liquidated, Reftrade shall be entitled, at its options, without any obligation to pay damages and without prejudice to any other rights it may have, to rescind the contract in whole or in part, or to suspend the performance (or further performance) of the contract. In those instances Reftrade shall moreover be entitled to demand immediate payment of all amount owed to it.
- 13.2 If proper performance by Reftrade is impossible in whole or in part, either temporarily or permanently, as a result of one or more circumstances for which Reftrade cannot be held responsible, including those set forth in the following paragraph, Reftrade shall be entitled to rescind the contract.
- 13.3 Circumstances for which Reftrade cannot in any case be held responsible are: acts, except for wilful misconduct or gross negligence, of persons whose services it engages in the performance of its obligations; unfitness of goods used by Reftrade and the performance of its obligations; the exercise by a third party against the other party of one or more rights arising from a breach by the other party in the performance of a contract concluded between the other party and the said third party in respect of the goods to be delivered by Reftrade; work stoppages; lock-outs; sickness, import, export and/or transit prohibitions; transportation problems; non-fulfilment of obligations by suppliers; interruptions in production; natural and/or nuclear disasters; and war and/or threat of war.
- 13.4 If the other party, after Reftrade has given him eight days notice, does not co-operate in respect of the delivery, Reftrade is released from its obligations.
- 14. Damages**
- 14.1 Reftrade shall only be liable for damage, which can be attributed to its wilful misconduct or gross negligence.
- 14.2 Reftrade shall never be obliged to pay compensation for any damage other than to persons or tangible property. The total liability of Reftrade for all claims of any kind for any loss or damage resulting from its performances or lack of performance under the contract shall not in any event exceed an amount equal to the nominal contract price of the goods of service on the basis of which the damage is claimed. Therefore, possibly payment of damages is thus restricted at the most to the amount for which that specific object or service is delivered.
- 14.3 Reftrade shall be entitled to assert all available legal and contractual means of defence in defending against its own liability to the other party as well as against the liability of those of its subordinates and the non-subordinates for whose conduct it may be (vicariously) liable by law.
- 14.4 The provisions contained in this article do not effect Reftrade's liability under mandatory law.
- 14.5 Reftrade can only be held liable for alternative damages, i.e. compensation of the performance that has not take place. Reftrade shall not in any circumstances be liable for any loss of use, including punitive damages, profit, revenues or anticipated savings, any increase in operating costs or any financial or economic loss or any indirect or consequential loss or damage whatsoever. Moreover Reftrade shall have no liability whatsoever for loss of damage due to late delivery or non-delivery of the equipment subject to the agreement of sale. Furthermore, in the event that Reftrade's performance of this sale or service is, in whole or in part, prevented or hindered by any cause whatsoever, Reftrade shall have the right to cancel, without any liability on its part, the entire or any portion or portions of this order or service so effected.
- 14.6 Reftrade disclaims and the other party waives and releases Reftrade from any and all representations and warranties, either expressed or implied, as to any matter whatsoever, including without limitations: the design, condition availability, operation, merchantability or fitness for use of the equipment; the fitness of the equipment for any particular use or purpose of the other party; the conformity of the equipment to the specifications required by any country or political subdivision within which the equipment may be used. The other party acknowledges and agrees that Reftrade shall have no liability to the other party for any claim, loss or damage caused or alleged to have been caused directly, indirectly, incidentally or consequentially by the equipment or by any inadequacy thereof or deficiency or defect therein, or by any incident whatsoever in connection therewith whether arising in strict liability or otherwise.
- 15. Applicable law/competent court**
- 15.1 Dutch law is applicable to all legal relations between Reftrade and the other party.
- 15.2 Disputes between Reftrade and the other party shall be exclusively adjudicated by the Court at Reftrade's place of business unless Reftrade as plaintiff or petitioning party elects the competent court at the other party's domicile or place of business.
- 16. Conversion**
- 16.1 If and insofar as, on the grounds of reasonableness and fairness or its unreasonably onerous character, no rights can be derived from any provision in these general conditions of sale, that provision shall be interpreted, as regards its content and effect, as closely as possible to the text as written but in such a way that rights can indeed be derived therefrom.
- 17. Dutch text prevails**
- 17.1 The Dutch text of this general conditions of sale prevails over any translation thereof.
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