



GENERAL TRADING CONDITIONS AMW

This is a translation of the conditions as deposited at the clerk's office at the District Court of Dordrecht. In so far there are differences between this English translation of these conditions and the Dutch version thereof, the Dutch version will prevail.

ARTICLE 1: APPLICABILITY

- 1.1 These conditions apply to all offers and contracts between on the one hand Handels- en Adviesbureau voor Aandrijftechniek, Machines- en Werktuigen AMW, also doing business under the name AMW-MARINE (hereinafter, depending on the circumstances, both jointly and/or separately to be referred to as "seller") and on the other hand it's customers (hereinafter to be referred to as "buyer") and also to the services, rendered by the seller.
- 1.2 Deviations from these conditions will only be accepted when they have been agreed upon between seller and buyer in writing.
- 1.3 Buyer's general conditions will not apply, unless these have been accepted in writing by seller.

ARTICLE 2: OFFERS, CONCLUSION AND CONFIRMATION

- 2.1 All offers and quotations are without commitment, unless mentioned otherwise explicitly in writing.
- 2.2 Offers and quotations are based on, and the seller may assume the correctness of, the information, drawings, specifications etc. as provided by buyer.
- 2.3 Agreements, however named, can only be regarded as concluded, after seller accepts the instructions to perform. The explicit acceptance will appear from the written confirmation of seller to buyer, or from the fact that the seller effectively and externally sets about execution of the agreement.
- 2.4 Agreements entered into with employees of seller who have no procuration and/or power of attorney to represent the seller, do not bind the seller, unless and only to extent that the seller affirms the agreement.
- 2.5 Where the seller at the request of the buyer carries out works and/or performs, before an agreement has been concluded, the seller is entitled to claim payment in accordance with seller's then prevailing tariffs.

ARTICLE 3: DATA, ADVICES, DRAWINGS AND MATERIALS

- 3.1 Data, such as pictures, measures and weights, given in seller's prospectus and other written material are not binding.
- 3.2 Information and advice given by the seller are only of a general nature and without any commitment.
- 3.3 Small differences with the usual tolerances will not create a basis for the buyer to protest, claim for damages or rescindance of the agreement.
- 3.4 The buyer is liable and responsible for the functional suitability of materials, prescribed by him; that is to say for the suitability of the material or the parts thereof for the purpose for which it is destined according the design.
- 3.5 The seller does not accept any responsibility of whatever nature for a design, which has been made by or on behalf of the buyer, nor for possible advices in connection with that design.
- 3.6 In case of conclusion of an agreement between buyer and seller, and where designs have not been made by the seller, the seller will only accept responsibility for fabrication in accordance with the agreement and for the suitability of the used materials in as far as these materials have not been prescribed by the buyer. Before materials, which have not been prescribed by the buyer, are being processed, the buyer is entitled to have same examined by third parties. Possible costs in connection thereto will be for the account of the buyer. After processing of those materials or parts, the buyer will be barred from saying that the used material was functionally unsuitable, and the buyer will also be barred from invoking other defects in the material, which he reasonably could or should have found in an examination.
- 3.7 The seller is not obliged to accept transfer of the responsibility for the design, made by or on behalf of the buyer. The seller must be given sufficient time to decide whether or not to be accept such transfer. The seller therewith must be given the opportunity to study the complete design and to make calculations or to do whatever is necessary for such examination, and the buyer must hand over all information and documentation which can or will be necessary or useful in the latter respect.
- 3.8 The seller will be entitled to claim compensation for the costs, made in connection to the investigation, mentioned herein before, unless already in approaching the seller it was apparent that the buyer wished to pass the responsibility to the seller.
- 3.9 The seller rejects each and every responsibility for parts and materials, which have been provided by or on behalf of the buyer.

ARTICLE 4: INDUSTRIAL AND INTELLECTUAL PROPERTY

- 4.1 All data, amongst which designs, sketches, pictures, drawings, models, programs, with respect to the goods, their composition and/or application and use, as provided by the buyer, will remain the property of the seller, also when the seller has charged costs in respect thereof to the buyer.
- 4.2 The buyer warrants that the information and data as supplied by the seller will not be copied, shown or be used in whatever manner to or by third parties or be put at the disposal of third parties without explicit permission obtained from the seller beforehand and in writing.
- 4.3 The buyer is held to return to the seller the information and documents, mentioned herein before, at seller's first request.
- 4.4 In case of non compliance with the obligations set out in this article, the buyer will have to pay to the seller an immediate penalty of Euro 500,00 per day of part thereof, notwithstanding all other seller's rights.

ARTICLE 5: PACKING

Necessary packing will be provided against cost price and will not be returnable. Whether or not packing is necessary will be at the seller's sole discretion.

ARTICLE 6: PRICE

- 6.1 The price will be ex factory country of origin, unless agreed upon in writing otherwise.

- 6.2 The price, mentioned in the quotations, is based on the cost price factors as apply on the date of the quotation.
- 6.3 In case and in so far as prices of materials, parts, wages or other cost price decisive factors, including but not limited to prices charged by the seller's suppliers, costs of transportation and so on will fluctuate during the period between the date of the quotation and the date of delivery, the seller is entitled to adjust the agreed price accordingly, also when a raise in cost price was foreseeable at the moment of quotation and/or confirmation.
- 6.4 Raises in prices as a consequence of currency fluctuations and fluctuations in rates of exchange between the Euro and other currencies, in which a payment related to the delivery must be done, are for the account and risk of the buyer.
- 6.5 The prices only relate to the goods, mentioned in so many words in the agreement. All further goods delivered by the buyer will be charged separately.
- 6.6 When the seller receives goods from the buyer for the execution of the agreement, the seller is entitled to add to the price a minimum of 10% of the cost price of the goods, so delivered by the buyer.

ARTICLE 7: DELIVERY

- 7.1 Delivery will be made ex factory country of origin, unless agreed upon otherwise explicitly in writing.
- 7.2 When it has been agreed upon in writing explicitly that the goods will be delivered at another place than as mentioned above, the seller will be held to deliver the goods at such place, mentioned in the agreement. Costs of transportation will then be for the account of the seller, but the risk of loading and transportation (including possible interim transhipment or storage) will always rest with the buyer. The seller has no obligation to carry the goods further than the place that the means of transport can reach over properly navigable grounds. Delivery will always be done from the means of transport, whereby the buyer is obliged to take delivery of the goods from such means of transport. The buyer will, at his account and risk, arrange for discharge of the goods. When the buyer fails to do so, the seller is empowered to discharge and store the goods for risk and account of the buyer in a place, which the seller deems fit for such discharge and storage. All costs in connection thereto will fully be for the account of the buyer.
- 7.3 Goods which have been delivered to the seller for the purpose of processing, repair or inspection, will be held by the seller at the risk of the buyer. The seller will exercise due diligence for the goods, but the buyer will have to maintain insurance on the goods at its own costs.
- 7.4 The period for delivery only starts running after the seller has received all necessary information, drawings etc. for delivery, after agreement has been reached concerning all technical details and (possible) agreed (part) payment have been received by the seller.
- 7.5 A period set for delivery is never a peremptory period. In case a time set for delivery is being exceeded, the seller must be declared in default in writing whereby the buyer must set a new period of time of at least half of the original period to the seller to fulfil its obligations. Only after expiration of that period of time the seller can be held liable.

ARTICLE 8: INSPECTION

- 8.1 The goods will be deemed to have finally and unconditionally be accepted by the buyer, when is has been agreed upon in writing that the buyer will (have) inspect(ed) the goods at the seller's or at the buyer's, and the buyer has not exercised that right within 5 working days after the opportunity to do so has been given to the buyer.
- 8.2 The costs of inspection are for the account of the buyer.
- 8.3 At all times the buyer will, at the seller's first request to (have) examine(d) the goods or specific goods, immediately after delivery of these goods give all opportunity to the seller to carry out all necessary tests to establish the quality thereof.
- 8.4 In case of complaints concerning the delivered goods, these goods can never be rejected but after a second examination as mentioned in article 16.4 hereof.

ARTICLE 9: ASSEMBLY AND PUTTING INTO OPERATION

- 9.1 The costs of assembly and putting into operation are not included in the price of the goods.
- 9.2 Where the seller has in writing agreed to assemble the goods and put them in operation, he will only accept responsibility concerning those goods when:
- assembly and putting into operation will be done in accordance with the seller's instructions, whereby seller is entitled to appoint mechanics of other employees to supervise such activities. Costs of travelling and costs of housing, food etc. for the mechanics and/or other employees are for the account of the buyer;
 - the buyer arranges that the circumstances (in widest sense of the word) at the place where assembly and putting into operation will take place, will not (be able to) create any disturbing influence, that gas, water, electricity and so on are present and that the premises are heated and that sufficient separate dry storage places (with locks) for materials, tools and other goods are available and also the premises comply to all requirements as set out in the Arboret and other regulations, unless it follows from the agreement that this is not necessary.

- 9.3 The buyer must, for this account, give the necessary assistance in the form of men and material.

ARTICLE 10: MODIFICATIONS

- Modifications or annulment of the agreement require the written approval of the seller. When the buyer wishes to terminate or modify the agreement, he will be held to pay to the seller all damages, including lost profit, and all costs resulting from such annulment or modification.

ARTICLE 11: PAYMENT

- 11.1 Each agreement is being entered into by the seller under the suspensive condition that the buyer will appear to be sufficiently credit worthy, as will appear from information, obtained by the seller.
- 11.2 Notwithstanding what has been said above the seller is at all times entitled during the execution of the agreement or before or at the delivery, to suspend its obligations until the



buyer has put up sufficient, such at the sole discretion of the seller, security for its financial obligations. This will also be the case, when a credit has been agreed upon. When the buyer refuses to provide the requested security, the seller is entitled to consider the agreement as terminated, notwithstanding the seller's right to claim all damages amongst which lost profit.

- 11.3 Unless explicitly agreed upon in writing otherwise, payment must be made in cash without discount or set off at the delivery of the goods, irrespective whether the sold good in full or only in part will be delivered, and irrespective whether the buyer objects or not. Any discount, set off or compensation is not allowed.
- 11.4 Payment is due on the mentioned date, but will in any case be due immediately upon or after delivery. When payment has not been received on the due date and/or (in full or part) the date of delivery, the buyer is held to pay as of that date interest at 2% over the current promissory discount of the Nederlandsche Bank, and also all (out of) Court costs, such with a minimum of 10% of the total due amount, but in any case Euro 250,00.
- 11.5 The seller is entitled to suspend its obligations, when the buyer has not paid any amounts due as mentioned in article 11.4.
- 11.6 When the buyer does not, not timely and/or not completely fulfil his obligations to pay, the seller will be entitled to suspend (further) obligations under this agreement, until the date that the buyer will have complied with its obligations, or to consider the agreement as terminated, such notwithstanding seller's rights to claim damages in the widest sense of the word.
- 11.7 Payments by the buyer will first be set off against all due interest and costs, and thereafter with due invoices, even when the buyer mentioned that payment must be set off with some specific later invoice.
- 11.8 The seller's rights to suspend and/or annul and/or terminate will in any case exist when the buyer will be declared in bankruptcy, suspension of payment or similar situation or will be placed under guardianship or when a request thereto will have been filed, when any arrest on goods or claims of the seller will be made or when the seller dies, will be liquidated or dissolved.

ARTICLE 12: SET OFF BY SELLER

Seller will at all times be entitled to set off amounts claimable from the buyer with amounts payable to the buyer.

ARTICLE 13: TITLE AND PLEDGE

- 13.1 Notwithstanding what has been stipulated in the other articles of these conditions, title of the goods only passes to the buyer after payment of all seller's claims as against the buyer within the context of par. 3:92 BW, from whatever nature and irrespective of the question whether such claims are due, including interest and costs and where there is a current account, until the moment that no claim from the seller exists any longer.
- 13.2 Before (full) payment by the buyer has been made, the buyer is not entitled to pledge the goods to third parties, to sell the goods or to transfer or charge those goods in whatever manner, other than the non-fiduciary transfer of title of those goods as per the normal appropriation, unless the seller will have agreed thereto.
- 13.3 When the goods have lost their individuality after having been built in or otherwise, at a moment when the buyer has not yet fulfilled all its obligations as against the seller, the buyer herewith grants a right of silent pledge upon the goods in which the delivered goods have been built in or assembled.
- 13.4 In case of non-compliance by the buyer with what has been stated in this article, and also in case of each (other) breach of contract on the side of the buyer and also in the case as described in article 11.8 hereof, the seller is entitled to take back all the goods delivered, without any permission from the buyer or from a Court of law being required, and to take the goods from the place where they were, which includes the right to dismantle the goods. In as far as necessary the buyer herewith grants power to the seller to do everything that is necessary or useful in respect to take back the relevant goods, including the power to make statements and/or start proceedings in the name of the buyer. In such case each and every claim of the buyer will immediately be due.
- 13.5 The buyer must give notice of these rights to third parties to whom title and/or pledge or other charge of or on the goods is being given.

ARTICLE 14: FORCE MAJEURE

- 14.1 When, after a period of delivery has been agreed upon, for one of the parties circumstances occur which necessitate an alteration of the time and/or times of delivery, then that party will immediately inform the other party in writing by telefax or by telex.
- 14.2 Circumstances beyond the control, also when foreseeable, of the seller, which are of such a nature that the fulfilment of the agreement in full or in part is being prevented, or which make that such fulfilment can reasonably not be demanded from the seller, which will include non or non timely delivery to the seller by his suppliers, will be regarded as force majeure.
- 14.3 In case of force majeure the seller has the choice to either suspend in full or in parts his obligations and/or to terminate the agreement in as far as not yet executed, and to claim payment for the part which had already been executed, without being held to pay any damage to the buyer, unless what has been delivered already reasonably cannot be considered as usable.

ARTICLE 15: GUARANTEE

- 15.1 This article only applies when no specific, different, (factory) or other guarantee has been given. Also in those cases the seller however is entitled to invoke this article.
- 15.2 Notwithstanding the limitations mentioned in these conditions, the seller guarantees the soundness of the goods delivered by him, under the condition that all his instructions concerning the use of the goods will strictly be followed.
- 15.3 The period of guarantee starts to count as of the date of delivery or dispatch of the goods and will end 6 months thereafter.
- 15.4 The seller will only be liable for defects of which the buyer proves that these defects have occurred within the period of time mentioned in article 16.3, solely or mainly deriving from a wrongful fabrication or wrongful processing chosen by the seller, or otherwise as a consequence of defective materials used by the seller. For defects, which are caused by any other cause, the seller is not liable. Such a defect must immediately after detection but in any case within the period of time stipulated in article 16.1 be brought to the attention of the seller

in writing, and, in as far as the seller expresses its wish thereto, the respective part or goods must immediately be sent to the address as given by the seller, such at the costs and the risk of the buyer. In such case the seller will either repair the good(s) without charge or replace the good by another good, such at the sole choice of the seller.

- 15.5 The above-mentioned guarantee concerning repair or replacing is limited to the new delivery exclusive of the costs of transportation and consequently does not include possible charges on the respective part, nor import duties or value added tax. These are for the account of the buyer. Also necessary to send mechanics or other employees, the usual costs will be charged.
- 15.6 Defects which in part or in full are the consequence of raw materials, materials or constructions which have been chosen by the buyer or which have been prescribed by a third party or government body, are excluded from the guarantee described in this article.
- 15.7 When the buyer during the period of guarantee effects or has effected repairs or changes without previous written agreement from the seller, or when the buyer does not comply with his obligations to pay, then the guarantee will cease to exist immediately. The buyer is not entitled to refuse to pay alleging that the seller has not, not yet or not fully complied with the guarantee obligations.
- 15.8 No right to guarantee exists when the cause of the defects cannot be proven by the buyer.
- 15.9 The seller will never be liable for any indirect damage, such as damage as a consequence of stoppage, delay or any other consequential damage from whichever nature, nor for any direct or indirect damage which is being caused to or by respectively by the functioning or non functioning or incorrect functioning of the delivered goods or caused by personnel employed by the seller, caused, directly or indirectly, to people or persons, which or whom ever.
- 15.10 When the seller provides personnel to supervise the use or application of the delivered goods, the seller does not give any guarantee and does not accept responsibility – although the seller will do everything that is reasonable to ensure that each technical advice is adequate and the personnel is skilled – for the suitability of such advices and/or the craftsmanship of the employees, unless explicitly agreed upon otherwise in writing.
- 15.11 Buyer will safeguard the seller for each and every liability of the seller against third parties deriving from or in connection with the (non timely or incorrect) delivery or functioning of the goods.
- 15.12 Notwithstanding what has been said above, each liability of the seller, from which ever nature, included liability based on these conditions, will always be limited to maximally that part of the amount of the purchase price of the goods, which had been paid by the buyer to the seller at the moment that the claim came into existence.
- 15.13 The conditions stipulated for the benefit of the seller concerning exclusion or limitation of liability have been stipulated for the benefit of all those, used by the seller for the execution of the agreement.

ARTICLE 16: CLAIMS

- 16.1 Claims concerning visible defects to delivered goods must be reported to the seller immediately after delivery, or, when the buyer reasonably could only detect the defect later, within 8 days after detection of the defect. A telephonic message must be confirmed in writing within 2 days after delivery of the goods.
- 16.2 Upon the receipt of the goods the buyer must make a note of the claim in the respective document of transport such as confirmation of the visible defect on the time of delivery of the goods.
- 16.3 No claims will be accepted when it concerns used goods.
- 16.4 The goods to which the claim relate, must be put at the disposal of the seller for the purpose of inspection and re-examination in the state in which the goods were at the time the defects were found unless the seller has given explicit agreement in writing. No claims will be accepted concerning goods which can no longer be examined and/or re-examined.
- 16.5 A claim concerning delivered goods does not influence the rights and obligations of the parties concerning previously delivered goods and goods to be delivered later on, also not when the goods will or will be delivered as performance of the same agreement.

ARTICLE 17: SECRECY

The buyer agrees also on behalf of its employees that it will maintain secrecy as towards third parties concerning all drawings, models, constructions, schemes, programs and other company information and know-how in the widest sense of the word, which came to the knowledge of the buyer as a consequence of, or in connection to the agreement.

ARTICLE 18: EVIDENCE OF SELLER'S BOOKS

Unless the buyer will prove the contrary, the seller's bookkeeping will be decisive between the parties of what has been agreed between them.

ARTICLE 19: DISPUTES

All disputes, including those which are regarded as such as by only one of the parties, resulting from or in connection to the agreement between the buyer and the seller and/or concerning connected agreements, will exclusively be brought to the competent Court in Dordrecht unless buyer and seller explicitly agree otherwise, notwithstanding the seller's right to bring disputes before other Courts.

ARTICLE 20: PRESCRIPTION AND EXTINCTION

Each right of claim will prescribe and cease to exist 6 months after the date of factual delivery of the goods.

ARTICLE 21: APPLICABLE LAW

All agreements subject to these conditions will be governed by Dutch law unless the parties agree explicitly otherwise. Applicability of the uniform code is excluded.

ARTICLE 22: FINAL PARAGRAPH

In case any stipulation of these conditions will appear to be null or nullifiable, all other conditions will remain in force. Such conditions will then be considered to read as is valid, and is in as much as possible consistent with the meaning of the relevant stipulation.