



General conditions of sale and delivery Gomez Trading Holland

I. GENERAL

1. These conditions shall apply to all quotations and agreements for purchase/sale of goods and/or on the instruction of GTH, with registered office in Raalte, municipality of Raalte, The Netherlands, hereinafter to be referred as GTH, insofar as not stipulated otherwise in the quote or agreement. These terms can be quoted as AVW-GTH.
2. Additions or exceptions to these conditions must be agreed in writing; these additions and exceptions shall only apply for the agreement for which they are made.
3. The rights and obligations arising from agreements between GTH and client may not be transferred by client to third parties, except with the written consent of GTH.
4. The provisions of section 1 title 7 of book 7 BW (Dutch Civil Code) (order) with the exception of Article 412 shall not apply to the present legal relationship unless otherwise specifically provided in the agreement or in these conditions.

II. QUOTATIONS

All quotations shall be without obligation and shall be valid for a period of 30 days, unless otherwise agreed in writing. A quotation which contains a time-limit may nevertheless be revoked by GTH, even after receipt of order.

III. AGREEMENTS

An agreement shall be formed under the suspense condition that GTH has approved and confirmed the order in writing or a start has been made on the execution of the order. The contents of the agreement shall be determined by the proposal and/or confirmation of order of GTH and these general conditions.

IV. PRICES

1. All price quotations and the prices which GTH charges are the prices applicable at the time of the quotation or of the conclusion of the agreement ex works in Raalte, excluding VAT and other costs attaching to the agreement, such as levies and tariffs.
2. Where after making a quotation a change occurs to one of the factors determining the price, GTH shall be entitled to adjust the prices accordingly, even where the agreement has in the meantime been concluded.
3. Price revisions of more than 10% shall give the client the right to cancel the agreement, provided this is done in writing and within seven days of receipt of our notification thereof. A cancellation as indicated above shall not give client any right to compensation for any damage whatever.



V. PAYMENT

1. Client shall be obliged to pay all invoices before delivery of the goods in question or before the work in question is carried out (payment in advance), unless otherwise agreed in writing. GTH shall not deliver the goods in question or carry out the work in question until the invoice has been paid in full.
2. All extrajudicial and judicial costs incurred by GTH by virtue of a dispute with client, both as plaintiff and as defendant, shall be for account of client. The extrajudicial collection costs to be established in accordance with the collection tariff of the Netherlands Bar Association, the judicial collection costs on the actual amount paid for the proceedings by GTH, even where this exceeds the liquidated costs of the proceedings.

VI. DELIVERY TIME DELIVERY, RISK

1. The time of delivery mentioned or agreed in the quotation and/or confirmation of order shall not be regarded as a deadline, not even if this is expressly accepted by client.
2. The time of delivery mentioned or agreed shall in any case, but not exclusively, be automatically extended by the period(s) during which:
 - there is a delay in the supply and/or dispatch and/or of any other circumstance temporarily holding up the execution, irrespective of whether this can be blamed on GTH;
 - client defaults in one or more obligations towards GTH or there is a justified fear that he will default in these, irrespective of whether the reasons for this are justified or not;
 - client does not put GTH in a position to execute the agreement; this situation occurs among other things where client remains in default of notifying the place of delivery or making available data, goods or facilities necessary for the execution.
3. Transport insurance shall only be taken out by GTH on the express request of client; all costs relating to this shall be for client's account.
4. Delivery shall be deemed to have taken place at the time when the goods are made available to GTH by client. Where client does not take the goods, they shall be stored for his account and risk or sold by GTH. GTH shall be entitled to recover its claim from the proceeds.
5. Delivery outside the Netherlands shall be carried out Ex Works (EXW) Incoterms 2000, unless one of the other Incoterms of the International Chamber of Commerce (ICC), Edition 2000, is agreed.
6. Partial deliveries shall be permitted.

VII. GUARANTEE/CLAIM

1. No guarantee shall be given, unless otherwise indicated in the purchase contract.
2. Guarantee shall only apply to sales of factory new machinery. If so, the factory warranty applies.

VIII. INSPECTION

Client shall have the right, for own account, to inspect the goods before delivery at a time and place determined by GTH.

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IX. NON-FULFILMENT/CANCELLATION/SUSPENSION

1. GTH shall be authorized to cancel the agreement in full or in part or to suspend the execution, with immediate effect, without judicial intervention, notwithstanding the other rights to which it is entitled (to fulfillment and/or compensation), where:

- client acts in contravention of any provision of the agreement between parties;
- client applies for suspension of payment or makes an application for adjudication of bankruptcy
- bankruptcy of client has been applied for;
- the business of client is shut down or liquidated;
- a private agreement is offered.

In these cases any claim against client shall be immediately payable, without GTH being held to any compensation or guarantee.

2. The provision of paragraph 1 of this article shall be applicable accordingly where client, after being invited to do so in writing, has not provided security which is suitable in the view of GTH within seven days.

3. In the event that the customer exceeds the term of payment and/or receipt by more than fourteen days, without being obliged to issue any further notice GTH is entitled to resell the goods sold to the customer, in which case the customer forfeits any down payment made to GTH as compensation for losses incurred, unless the customer is able to prove that the losses incurred by GTH are less than the down payment.

X. RESERVATION OF TITLE

1. Delivery shall only be carried out on reservation of title. This reservation shall apply with regard to claims to payment to be delivered by GTH to client by virtue of any agreement and/or work carried out within the framework of delivery as well as for claims for the default of client in the fulfillment of these agreements.

XI. LIABILITY

1. GTH shall not be liable for damage caused as a result of any default in the fulfillment of its obligation(s) towards client. The fulfillment of the obligations under guarantee/claim as described in article VII shall apply as sole and full compensation. Any other claim for compensation, including claims for trading losses (losses due to stoppage, loss of income and any other consequential losses of whatever nature) and losses incurred as a result of liability in relation to third parties are also expressly excluded, unless intent or gross negligence by GTH or managerial subordinates is involved.

2. GTH shall also not be liable for intent or (gross) negligence of (non-managerial) subordinates or of others which it has called in by virtue of the execution of the agreement.

3. GTH shall not accept any liability for advice given by or on behalf of it.

XII. FORCE MAJEURE

Force majeure shall be understood in the sense of these general conditions to be any circumstance outside the will and agency of GTH, whether or not foreseeable at the time of entering into the agreement, as a result of which fulfillment may not reasonably be demanded of GTH, such as war, government measures, lack of raw materials, factory or transport disruptions of any nature whatever, strikes, lockout or lack of personnel, quarantine, epidemics, hold-ups due to frost, default of third parties called in by GTH for the execution of the agreement, etc.

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XIII. PARTIAL NULLITY

Should one or more provisions from this agreement with client not be or not be entirely legally valid, the other provisions shall be fully maintained. Instead of the invalid provisions a suitable regulation shall apply which comes as close as possible to the intention of parties and the economic result sought after by them in a legally effective way.

XVI. PLACE OF FULFILMENT, APPLICABLE LAW, COMPETENT COURT

1. The seat of GTH shall be the place where client must fulfill his obligations towards GTH.
2. Solely Dutch law shall apply to all quotations and agreements of GTH, with the exception of the provisions of Section 6:5.3 BW (Dutch Civil Code).
3. All disputes which may arise as a result of the agreement signed between client and GTH, or from further agreements, which may follow them, shall be settled by the competent court in Zwolle.
4. These conditions are registered with the “kamer van Koophandel” in Zwolle.
5. Applicable is the last registered version or the version valid at the time of the creation of the legal relationship with the user.

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