

## General Terms and Conditions of Sale and Delivery of GMR Maskiner A/S.

### **1. Basis of Agreement**

- 1.1. These General Terms and Conditions of Sale and Delivery shall *apply for all purchase agreements, unless otherwise agreed in writing.*
- 1.2. If the Buyer does not agree with the contents of the purchase agreement, the Buyer shall *object to the agreement no later than five (5) business days after the agreement was made, however, no later than upon delivery.*
- 1.3. Subsequent agreements shall be binding only if accepted by both parties in writing. If the purchase agreement deviates from the wording of the order confirmation, the purchase agreement shall take precedence over the order confirmation.

### **2. Prices**

- 2.1. Prices for items / deliveries which are not to be delivered immediately have been *agreed subject to no changes having been made before delivery to duties, customs tariffs, foreign exchange rates, etc.*
- 2.2. In the event of changes as mentioned in item 2.1. above, the Seller shall be entitled to adjust the purchase price to compensate for this.
- 2.3. If, upon such adjustment, cf. item 2.2. above, the Buyer incurs a price increase of 5 per cent of the price agreed, the Buyer may choose to cancel the transaction. The Seller shall be informed of such a cancellation of the transaction within three (3) days of the Buyer having received information about the price change; failing that, the sale shall take effect and the changed price shall be considered accepted by the Buyer.

### **3. Delivery and Risk**

- 3.1. *Delivery is ex Seller's business address, unless otherwise agreed between the parties.*
- 3.2. *If it has been agreed that the Seller is to ship the product, the Buyer shall pay all shipment and freight costs as well as insurance costs, if any. The Buyer shall also bear the risk of accidental destruction or deterioration of the product when it leaves the Seller's business address.*
- 3.3. The Buyer is obliged to collect the purchased goods within six (6) days after the Seller has informed him that they are ready for collection.
- 3.4. In the event that the circumstances of the Buyer result in postponement of delivery in relation to the delivery time agreed, the Seller shall have the right to concentrate and inform the Buyer of this. The Seller shall then be entitled to forward an invoice, regardless of whether the Buyer has collected the purchased goods as agreed or not.

### **4. Seller's Responsibility in Case of Delay**

- 4.1. Unless otherwise expressly agreed in writing, the delivery time stated by the Seller is an approximate time. The Seller may require that the delivery time be changed in connection with any change in or addition to the order.
- 4.2. In case of delay, the Buyer shall not be entitled to cancel the transaction, unless the delay exceeds thirty (30) days.
- 4.3. As a consequence of the Seller's delay or the Buyer's own cancellation of the agreement (regardless of the reason for the delay or cancellation), the Buyer *cannot claim damages for indirect losses, including consequential loss, loss of time and loss of profits.*

- 4.4. The Seller *cannot* be held liable to pay damages *in excess of DKK 100,000.00* in total for delays for each purchase agreement.
- 4.5. A delay, regardless of reason, shall only give the Buyer the right to cancel the agreement if the purchased goods have not been delivered no later than four (4) weeks after the delivery time agreed.
- 4.6. The Seller's obligation to deliver shall be postponed until the obstacle to delivery ceases and the Seller shall have the right to cancel the purchase when the obstacle to delivery has lasted for more than four (4) weeks, without this entitling the Buyer to claim damages of any type.

## **5. Service, Complaints and Defects**

- 5.1. The Buyer shall be obliged to carefully observe the Seller's information on the use and maintenance of the purchased goods which the Seller has given him orally or in writing (including the Seller's documents in the form of brochures and manuals).
- 5.2. Upon receipt and prior to using, adjusting or processing the purchased goods, the Buyer shall immediately check whether the purchased goods correspond to the quality and quantity agreed, and at the same time, the Buyer shall also check whether the purchased goods are defective.
- 5.3. If the Buyer ascertains that the purchased goods have not been delivered in conformity with the contract, the Buyer shall *immediately make a complaint in writing* to the Seller, that includes a description of the defect. A complaint of defects shall be received by the Seller *no later than fourteen (14) days* after the defect has been or should have been discovered by the Buyer. *Upon purchase of new goods* – including machines, electric plant, tires and tubes – any claim of defect, regardless of type, shall, however, *be made no later than twelve (12) months* from the delivery date, and for *sale of new spare parts no later than six (6) months* from the delivery date, unless otherwise agreed in writing. For seasonal machines which are delivered outside the season of the machine in question, the deadline shall, however, not start until the start of the subsequent season.
- 5.5. Within the 12-month deadline, the Seller shall replace parts that are defective as a consequence of defects in material, installation or manufacture.  
No replacement shall take place if the defect is caused by the Buyer's failure to follow the Seller's instructions, cf. item 5.1. above, i.e. if replacement is desired due to normal wear, if spare parts other than the original or those specified by the Seller have been used, or if the repair work has been carried out by workshops other than those approved by the Seller.
- 5.6. Expenses in connection with a justified complaint shall be paid by the Seller. However, the Seller shall not be obliged to pay any installation costs in cases where installation is usually carried out by the Buyer. If, after delivery, any optionals have been fitted by the Buyer, the Buyer shall pay any additional charges caused by such optionals in connection with any remedy of defects.  
The Seller reserves the right to invoice the Buyer for costs caused by any unjustified complaint.
- 5.7. If defects are proved which can be invoked vis-à-vis the Seller, *the Seller shall, at his own discretion and within a reasonable period of time, be entitled and obliged to carry out either replacement delivery, remedy the defect or provide the Buyer with a proportional reduction in the agreed purchase price.*
- 5.8. As a consequence of defects in the purchased goods or own cancellation of the agreement, the Buyer *cannot claim any damages for indirect losses, including consequential loss, loss of time and loss of profits*, unless the Buyer can substantiate that the defect was caused by gross negligence on the part of the Seller.
- 5.9. The Seller *cannot* be held liable to pay damages *in excess of DKK 100,000.00* in total for defects for each purchase agreement.
- 5.10. If the Seller enters into negotiations with the Buyer to find an amicable solution to a

complaint made by the Buyer, such negotiations do not mean that the Seller has acknowledged the complaint. The Seller is therefore still entitled to invoke the time limits agreed for complaints as well as limitations of liability.

## **6. Used Machines / Trade-in Machines**

- 6.1. For sale and trade-in of used machines, etc., such machines are traded in their present state and condition, without any liability or right of complaint, however, see items 6.2.-6.4. below.
- 6.2. If the selling party has neglected to observe his loyal duty of disclosure or if the condition of the machine, etc. is significantly worse than could be expected considering the price and circumstances, item 6.1. shall not apply.
- 6.3. For sale or trade-in of used machines, the right of complaint of the purchasing party, however, shall be limited to maximum one (1) month after delivery in relation to latent defects.
- 6.4. Unless otherwise agreed, the Buyer vouches for the mileage / operating hours and model year of the machine sold / traded in by the Buyer, and for the machine being unencumbered.

## **7. Payment**

- 7.1. Unless otherwise agreed in writing, payment shall be made in cash on delivery.
- 7.2. If the time of payment agreed is exceeded, the Buyer shall pay *2 per cent interest for each month and part thereof*, from the day of delivery until payment is made. In addition, the Buyer shall pay a fee of DKK 250.00 for each payment reminder in writing.
- 7.3. The Seller shall have the right, at his own option, to spend the Buyer's payments in advance on any interest and costs that rest with the Buyer, insurance premiums and any repair and spare parts costs in connection with the purchased goods. Payment spent in this way shall not involve breach of the Buyer's obligations as the agreed repayment scheme shall be extended accordingly in accordance with section 28(3) of the Danish Credit Agreement Act.

## **8. Credit Purchases, Retention of Title and Insurance Obligation**

- 8.1. The Seller reserves the title to the goods sold until full, valid payment of both purchase price, interest, costs, etc. has been made.
- 8.2. If the purchase is made on credit, the Buyer shall be obliged to take out the necessary liability, all-risk and fire insurance policies and the Buyer shall be obliged, on request, to document observance of this by submitting policies and receipts of premiums paid. The Buyer shall ensure that any insurance sum can be assigned to the Seller until the purchased goods have been paid in full. The insurance sum serves as advance satisfaction of the Seller's claim in so far as the insurance sum is not used to repair the purchased goods.
- 8.3. The Seller shall be informed immediately if the Buyer changes his address.

## **9. Product Liability**

- 9.1. Unless otherwise agreed in writing, the Seller's liability for damage to objects shall not exceed *DKK 2.0 million*.
- 9.2. It has been agreed that the Seller can never become subject to product liability extending beyond the *provisions of the Product Liability Directive*.
- 9.3. The Seller shall be responsible for damage only if the Seller has acted with *gross negligence*.

- 9.4. Regardless of items 9.1.-9.3. above, the Seller shall *on no account be responsible for any indirect losses*, including capital loss, consequential loss, loss of profits, loss of time, etc., unless the Buyer can substantiate that the loss was due to gross negligence on the part of the Seller.
- 9.5. In the event that the Seller incurs liability towards a third party due to the Buyer's use, extension, modification, scrapping, removal, sale, loan, letting, leasing or other use of the sold goods, the Buyer shall be obliged to hold the Seller harmless in so far as the responsibility goes beyond the limits stated in items 9.1.-9.4 above.
- 9.6. Both the Buyer and Seller shall be mutually bound to submit to legal proceedings before the same forum which deals with any case concerning product liability against the other party.

## **10. Disputes**

- 10.1. Any dispute regarding or in connection with the purchase agreement or the parties' agreements shall be settled in accordance with Danish law.
- 10.2. Disputes shall be settled by the city court in the Seller's judicial district.