

TERMS AND CONDITIONS OF SALE FOR USEDDAIRYEQUIPMENT B.V.

1. Definitions

The following definitions shall apply to these Terms and Conditions:

- Seller: Useddairyequipment B.V., a private limited company under Netherlands law, having its corporate seat at Lopik and registered with the Chamber of Commerce at Utrecht, the Netherlands, under number 30190319;
- Buyer: any party who negotiates or concludes a contract with the Seller;
- Product: goods and services;
- Additional Work: any goods that the Seller supplies in addition to and/or besides the quantities specified in the contract concluded by the Seller and the Buyer, and any services that the Seller renders to the Buyer which are beyond the scope of the services clearly specified in the contract, which additional quantities or services have been agreed with the Buyer in advance;
- Contract: the agreement concluded by the Buyer and Seller;
- Quotation: the quotation in writing that the Seller sends to the Buyer with respect to a specific Product.

2. Applicability

These Terms and Conditions shall apply to any and all Quotations from and Contracts with the Seller. The Seller hereby explicitly rejects any reference by the Buyer to other Terms and Conditions. Any variances from the present Terms and Conditions shall be binding only in so far as they have been agreed explicitly by the parties in writing.

3. Inspection, Quotation and Contract

- 3.1 Any (offer of products for sale published in) information that the Seller provides on its website, in mailshots or otherwise cannot be interpreted as a (binding) offer on the part of the Seller. The Seller shall make every effort to keep its website up to date. The fact that a Product is offered for sale on the Seller's website or elsewhere is no guarantee, however, that the Product is still available.
- 3.2 All samples, models, illustrations, photos and information about size, weight or other features of Products shall be for indication purposes only and cannot be interpreted by the Buyer as a guarantee on the part of the Seller that the Products conform thereto.
- 3.3 The Seller's website offers the Buyer an opportunity (I) to request the Seller to be allowed to inspect a Product, or (II) to request the Seller to give a written quotation for the Product. The quotation (hereinafter referred to as 'the Quotation') shall take the form of a contract of sale.

- 3.4 If the Buyer requests the Seller to give a Quotation the Seller may, at its discretion, send a written Quotation to the Buyer, provided the Product is still available. Quotations given by the Seller shall not entail any commitment, unless the parties have explicitly agreed otherwise in writing. A Quotation shall be open for acceptance for two days following the date specified in the Quotation; on expiry of that period the Quotation shall lose its validity. A Quotation may only be accepted by the Buyer in writing. A Contract between the Buyer and the Seller shall not become legally binding until the Seller confirms - after the Buyer has accepted the Quotation in writing - that the Contract has been concluded. The Seller shall be deemed to have confirmed the Contract only if the Seller co-signs the Quotation after it has been accepted by the Buyer and/or if an invoice is sent on the basis of the Quotation.
- 3.5 The Seller shall be free to send several Quotations to a number of Buyers for the same Product. A Contract between the Seller and the Buyer shall not take effect until the Buyer receives an invoice from the Seller or until the Seller returns the Quotation duly signed, in accordance with the provisions of Article 3.4.
- 3.6 All Products shall be offered for sale and sold 'as is' and 'where is'. If the Product offered for sale or any parts of the Product are still in use, the Product shall be deemed to have been offered for sale and sold in the condition prevailing at such time as they are no longer in use.
- 3.7 The Buyer shall be permitted to inspect the Product at his own expense prior to concluding a Contract with the Seller. In that event the parties shall agree a date and time for the inspection and the Seller shall inform the Buyer of the place where the Product is located. Inspection of a Product shall not affect the Seller's right to sell the Product to a third party.
- 3.8 The Product shall be deemed to have been accepted by the Buyer unconditionally if the Seller has not received a specific complaint in writing after the inspection and before the Buyer signs the Quotation or if the Buyer has signed the Quotation without inspecting the Product. Acceptance shall preclude any claim that the Buyer might have with respect to a breach of performance by the Seller.
- 3.9 Detection by the Buyer of any defects during an inspection of the Products shall require the Buyer to report his findings to the Seller, even if the Buyer does not eventually purchase the Product inspected.

4. Prices

- 4.1 The prices quoted on the Seller's website and in the Seller's mailshots or elsewhere shall not be binding on the Seller. Prices shall not be negotiable. No party receives any commission from the Seller.

- 4.2 Unless explicitly stated otherwise, the prices specified by the Seller are denominated in euros. Prices are exclusive of VAT or other government levies. Prices, moreover, are exclusive of dismantling, packaging, freight, insurance, reconditioning and installation costs, import duties and other incidental expenses (this list is not exhaustive). The Buyer shall bear the expense and risk of any and all import duties, costs of export licences or certificates and any and all levies and taxes with respect to the Product. Any VAT payable shall be stated separately on the invoice at the rate prevailing on the invoice date.
- 4.3 The Seller shall be entitled to charge the Buyer for Additional Work.
- 4.4 The Seller shall have the right to raise the agreed price in the event of an increase in one or more cost components upon which the prices in question are based.

5. Payment

- 5.1 All amounts payable by the Buyer with respect to the supply of Products must be paid within ten (10) days of the invoice date either in advance or by an irrevocable Letter of Credit as defined hereinafter in Article 5.4. Advance payments can be made by transfer to the bank account quoted by the Seller or in cash or by cheque. Sums payable by the Buyer under the Contract may not be set off against amounts payable by the Seller to the Buyer.
- 5.2 If the full invoice amount is not credited to the Seller's bank account within ten (10) days of the date stated on the Seller's invoice or if the Letter of Credit (as defined hereinafter in Article 5.4) is not received within the same period, the Buyer shall be deemed to be in default, without any notice of default or judicial intervention being required. The Seller shall in that case be entitled to dissolve the Contract by giving notice of termination in writing. If payment is made by cheque, the payment shall be deemed not to have been received within the specified time limit and the Seller shall be entitled to dissolve the Contract if the Seller receives no written confirmation from its bank that the cheque is covered, that the bank has verified this with the Buyer's bank and that the Buyer is no longer able to request a refund of the amount in question.
- 5.3 The Buyer shall be charged an additional fee of EUR 1.500,- for making payment by means of a Letter of Credit.

- 5.4 Letters of credit shall be subject to the following conditions.
- A Letter of Credit must be irrevocable and must be opened and confirmed by a first-class Dutch bank for the total agreed sale value stated in the invoice that the Seller sends to the Buyer.
 - Partial shipments and transshipments shall not be permitted under the Letter of Credit.
 - The Buyer shall bear all the expenses that are incurred in and outside the Netherlands for the issue and confirmation of a Letter of Credit.
 - The Letter of Credit must be opened and confirmed in euros and have a validity period of sixty (60) days or more. In case of any delays in the delivery of the Product, the Buyer shall be required to ensure that the Letter of Credit is amended, augmented and extended accordingly without delay.
 - Payment under a Letter of Credit must be made in full, at sight and only on production of the following documents:
 - original shipping document: CMR waybill, air waybill, waybill or bill of lading;
 - invoices relating to the Products shipped;
 - packing list.
- 5.5 Failure by the Buyer to make payment within the agreed term of payment shall render the Buyer in default without any notice of default or judicial intervention being required. From such time the Buyer shall be required to pay interest at the rate of 1.5% per month of the overdue amount, part of any one month being counted as a whole month. Continued failure by the Buyer to meet his obligations under the Contract shall also render the Buyer liable to reimburse the Seller for the expenses that are incurred by enforcing compliance with the Contract in and out of court, including all legal costs or debt collection charges, irrespective of whether such costs exceed the amount that would have been calculated pursuant to the current statutory regulations applicable thereto.
- 5.6 Payments made by the Buyer shall first be applied to cover the interest or costs payable by the Buyer and then the amount of the oldest outstanding invoice, irrespective of whether the Buyer states that the payment relates to a more recent invoice.

6. Delivery, passing of risk

- 6.1 Unless explicitly stipulated otherwise in the Contract, all Products sold shall be delivered EXW (ex works, Incoterms 2000). All other conditions included in the Contract shall be assumed to be the conditions defined in Incoterms 2000.
- 6.2 Unless otherwise agreed, the Products shall be immediately available and ready for delivery upon receipt of payment in full (100%) of any amounts payable under the Contract or upon receipt of a Letter of Credit for such amounts. The Seller shall inform the Buyer accordingly. Should the parties agree that the Buyer is to collect and transport the Products, the Products must be collected within fourteen (14) days once the Seller has confirmed in writing that payment in full (100%) has been received. If the Product is collected any later storage costs shall be charged at a rate of EUR 20,- per m² per month.

- 6.3 If the parties agree that the Buyer is to collect the Products, the risk of loss of or damage to the Products shall pass from the Seller to the Buyer at such time as the Seller advises the Buyer that payment has been received in full and that the Products are ready for collection. If the parties agree that the Seller is to arrange for the Products to be transported, the risk of loss of or damage to the Products shall pass from the Seller to the Buyer at such time as the Products are loaded onto the ship, the lorry or any other means of transport for conveyance to the Buyer. Goods-in-transit insurance can be taken out for the Products on behalf and at the expense of the Buyer at the explicit request of the Buyer in writing.
- 6.4 If a date or period has been agreed for the delivery of the Products by the Seller and if the date or period in question is exceeded, the Seller shall not be deemed to be in default by operation of law. Failure by the Seller to meet a delivery date or to observe a delivery period shall not entitle the Buyer (I) to take the initiative and meet any of the Seller's obligations under the Contract or to arrange for a third party to do so, (II) to demand compensation from the Seller or (III) to dissolve the Contract. In such circumstances the Buyer shall only have the right to order the Seller in writing to deliver the Products within fourteen (14) days. Should this additional period of fourteen (14) days be exceeded, with no delivery having been made, the Buyer shall then have the right to dissolve the Contract. Dissolution of the Contract by the Buyer shall only entitle the Buyer to repayment of the part of the purchase price that has already been paid.
- 6.5 The Seller shall decide on the mode of transport if the parties have agreed that the Seller shall pay the costs of transport to the place of delivery. The Buyer shall be required to pay the additional charges incurred if the Buyer requests an alternative mode of transport.
- 6.6 The Seller shall not be liable for any breach by a carrier, regardless of whether the Seller has engaged the carrier or not. The Seller shall be entitled to confine itself to assignment to the Buyer of any claims that the Seller might have on the carrier.

7. Retention of title

- 7.1 The Seller shall retain full title to all the Products that are delivered to the Buyer until such time as all the Seller's claims on the Buyer under the Contract, including interest and costs, are settled in full. Until title passes to the Buyer the Buyer shall not be permitted to sell the Product or to grant any security interest in the Product to a third party.
- 7.2 If the Buyer fails to meet one or more of his payment obligations to the Seller or if the Seller has good reason to expect such failure, the Seller shall have the right to remove and retrieve the Product which is subject to a retention of title. If the Product is retrieved the Buyer shall be reimbursed for the market value thereof, less the costs that the Seller incurs to retrieve the Product and less the interest and reimbursement for costs which the Seller is entitled to claim under the Contract. Under no circumstances shall the market value exceed the original purchase price exclusive of VAT.

8. Warranty

The Buyer is aware that the Products are not new and that they have previously been used. The Seller has not reconditioned the Products. The Seller shall not give any warranty on the Products.

9. Liability

- 9.1 The Seller's liability shall be subject to the limitations laid down in this Article.
- 9.2 A breach of performance by or on behalf of the Seller with respect to any of the latter's obligations under the Contract shall only render the Seller liable for compensatory damages, i.e. compensation for the part of the Contract that has not been performed. Any further liability with respect to (delivery of) the Product shall be excluded.
- 9.3 The Seller shall specifically not be liable for (hidden) defects or defects of which the Seller was not aware, or for non-compliance of the Product with the Buyer's expectations. Under no circumstances shall the Seller be liable for loss or damage sustained as a result of late delivery of the Product.
- 9.4 The Seller's liability for any tort committed by the Seller shall be excluded, except if such tort is the consequence of gross negligence or intent on the part of managerial staff employed by the Seller. The compensation payable by the Seller shall, in that case, not exceed an amount of EUR 15.000,- per damage-causing event, a series of related events being deemed to be one single event. Liability on the part of the Seller for loss or damage sustained as a consequence of tort, other than as defined hereinbefore in this paragraph, is hereby explicitly excluded.
- 9.5 Under no circumstances can the Seller be held liable for indirect or consequential loss, including, but not limited to, loss of profit. The Seller shall not be liable for any loss or damage sustained as a result of inadequate cooperation or information on the part of the Buyer.
- 9.6 If, pursuant to the provisions of this Article, the Seller can be held liable to pay compensation or if and in so far as it might be established at law that the limitation of the Seller's liability, as laid down in this Article, is not enforceable, the compensation payable per event - a series of related events being deemed to be one single event - shall under no circumstances exceed, at the Seller's discretion, (I) the invoice amount (exclusive of taxes) with respect to the Product in relation to which the claim is asserted, or (II) if the loss or damage is covered under an insurance policy, the sum that the insurance company in fact pays out to the Seller. If the limitations set out hereinbefore are not enforceable either, the Seller's liability shall in any event be limited to the sum of EUR 20.000,-.
- 9.7 Conditions relating to the limitation, exclusion or establishment of liability that a third party is able to invoke against the Seller may similarly be invoked by the Seller against the Buyer.

- 9.8 Entitlement to compensation shall exist only if the Buyer notifies the Seller in writing at the earliest opportunity of any event on which such entitlement is based. Any claim against the Seller shall, moreover, lapse if no legal proceedings are instituted within six (6) months of the event in question.
- 9.9 The Buyer shall indemnify the Seller and its staff against any claims submitted by third parties for compensation of any loss or damage that such third parties have sustained and that has been caused by or otherwise relates to the Products.

10. Force majeure

- 10.1 The Seller shall not be required to meet an obligation under the Contract if the Seller is prevented from doing so as a consequence of an event that is beyond the Seller's control and for which the Seller is not liable by law, pursuant to a juristic act or in accordance with generally accepted practice.
- 10.2 The term 'force majeure' shall be understood to mean: any events which hamper or prevent the delivery or the transport of Products, which events shall include, without limitation, the introduction of national or international regulations, general mobilization, war, hostilities, revolution, strikes, lockout, the cancellation or absence of transport services, shipwreck, loss and/or damage at sea and non-performance by the Seller's suppliers other than as a consequence of default on the part of the Seller. The Seller, furthermore, shall specifically not be required to perform the Contract if any country imposes import, export or transit restrictions, quotas or other government measures that result in the nullity of or the impossibility to obtain the necessary permits or licences.
- 10.3 The occurrence of force majeure shall entitle the Seller to suspend the fulfilment of its obligations and to dissolve, either wholly or partially, that part of the Contract that has not yet been performed in full, without any judicial intervention being required and without the Seller being required to provide compensation on that account.

11. Dissolution and suspension of the Contract

- 11.1 Failure by the Buyer to meet his obligations under the Contract within the specified time limit shall entitle the Seller to suspend the further performance of the Contract until such time as the Contract is subsequently performed, without prejudice to the Seller's other statutory rights to suspend performance of the Contract.

- 11.2 If:
- the Buyer fails to meet one or more of his obligations to the Seller under the Contract; or
 - an attachment is made against (part of) the Buyer's property, if the Buyer obtains a moratorium with respect to payments to creditors or if the Buyer is declared bankrupt or insolvent; or
 - if a change occurs in the Buyer's control structure as referred to in the Merger Code 2000 of the Social and Economic Council (*SER-besluit fusiegedragsregels 2000*), the Seller shall have the right to dissolve the Contract without any notice of default or judicial intervention being required. Such right can be exercised without prejudice to any other rights that the Seller has by law, including, without limitation, the Seller's right to claim compensation in full for any loss or damage - including, without limitation, interest and costs - that the Seller sustains or shall sustain as a consequence of default by the Buyer. The Seller shall not be liable for any loss or damage sustained by the Buyer as a consequence of the dissolution.

12. Disputes

- 12.1 Any disputes, either legal or factual, relating to the conclusion, the interpretation or the performance of the Contract or about the rights and obligations of the parties, shall be submitted for settlement to the competent court in the court district of Utrecht, the Netherlands, or, at the Seller's discretion, to the court that is competent pursuant to the general rules of jurisdiction.
- 12.2 The Contract shall be governed exclusively by Netherlands law. The applicability of the UN Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) is excluded.

13 Translations

The Dutch version shall be binding if there are any inconsistencies between the wording of the Dutch-language version of these Terms and Conditions and the translation thereof into another language.