

Terms and conditions

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General Terms and Conditions Governing the Sale and Delivery of Products and the Performance of Services

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Article 1 - Definitions

In these general terms and conditions, the following terms are defined as stated below:

- 1.1 Customer: the party that concludes an agreement with Veco Precision for the delivery of products or the performance of Services by Veco Precision;
- 1.2 General Terms and Conditions: the underlying general terms and conditions governing the sale and delivery of Products and the performance of Services;
- 1.3 Incoterms: the Incoterms 2010 as can be retrieved through www.iccwbo.org
- 1.4 Intellectual Property Rights; all registered and unregistered rights of intellectual property, including but not limited to patents, patent applications, trade secrets and know-how, design rights, copyrights, trademarks and trade name rights.
- 1.5 Order(s): the instruction of a Customer awarded to Veco Precision to deliver Products and/or perform Services;
- 1.6 Products: all movable goods, or any parts thereof, manufactured by or on behalf of Veco Precision;
- 1.7 Service or Services: development and design services, assembly work, commissioning activities, supervision, paid advice and/or other service activities;
- 1.8 Veco Precision: the private company with limited liability Veco B.V. incorporated under the laws of the Netherlands with address in Eerbeek at Karel van Gelreweg 22, 6961 LB under and its subsidiary private company with limited liability Reith Laser B.V. Chamber of Commerce number 10029257 with address in Wijchen at Bijsterhuizen 2429, 6604 LK.

Article 2 - Offers and agreements

- 2.1 These General Terms and Conditions apply to all offers, quotations, Orders and agreements with regard to the delivery of Products or the performance of Services by Veco Precision, as well as to all agreements ensuing from that.
- 2.2 All offers and quotations submitted by Veco Precision are non-binding and shall be valid for thirty (30) days. An order given to Veco Precision shall count as an offer of Customer that can only be regarded as having been accepted following written confirmation by Veco Precision.
- 2.3 Quotations issued by Veco Precision shall include: designs, drawings, models, samples, descriptions, illustrations, process parameters, production tools, indications of dimensions etc. and any enclosures related to the quotations of Customer. All this shall remain, just like tools made and/or used by Veco Precision, the property of Veco Precision and must be returned to Veco Precision on demand and must not be reproduced, published or made available to any third party without prior written consent by Veco Precision. Any and all templates, patterns and drawings made available by the Customer or produced for the Customer which are no longer in use shall be destroyed three (3) years after the last production order has been passed.
- 2.4 An agreement between Veco Precision and Customer is formed as soon as Veco Precision accepts the Order by sending a written confirmation of the Order.

- 2.5 As soon as an Order is confirmed by Veco Precision in accordance with clause 2.4, the agreement is binding between the Parties and cannot be cancelled by Customer without the prior written consent of Veco Precision.
- 2.6 It is the sole responsibility and risk of Customer to determine whether the Products and Services offered by Veco Precision are suitable for the purpose Customer intends to use them for.
- 2.7 Veco Precision reserves the right to change the construction and design of its Products if, in its reasonable opinion, this will not compromise quality.

Article 3 - Price and payment

- 3.1 The prices provided by Veco Precision are exclusive of sales and/ or value-added tax import duties/levies and any other governmental levies, bank charges, and the costs in connection with Veco Precision furnishing security.
- 3.2 Veco Precision reserves the right to alter its prices for any reason, including but not limited to alterations in the prices for raw materials, manufacturers prices, exchange rates, wage and transport costs, insurance premium, taxes, import duties. In the event of any price increase that exceeds ten percent (10%) of the originally offered price, Customer may terminate the agreement by providing written notice within thirty (30) days after notification of the price increase and only if and when the price increase is not the result of an increase of the prices of raw material that is being used by Veco Precision for the production of the Products.
- 3.3 The payments made by the Customer will first be applied to settle all interest and costs owed and subsequently to pay the invoices due.
- 3.4 In the event of liquidation or moratorium of the Customer, Veco Precision is entitled to demand immediate payment of all monies due.
- 3.5 Veco Precision reserves the right, at its discretion, to request a down payment or a full payment in advance or any other security as it sees fit.
- 3.6 Customer must pay all invoices within fourteen (14) days after the invoice date. If the 14-day payment term is exceeded, the Customer is in default by operation of law without a notice of default being required. The Customer immediately owes the higher of eight percent (8%) or the statutory interest rate (pursuant to section 6:119a of the Netherlands Civil Code). When calculating the interest rate, part of a month is regarded as a full month.
- 3.7 When outstanding invoices are judicially or extrajudicially collected, Customer owes all actual costs in connection with that.
- 3.8 In the event of cancellation - for whatever reason - by Customer of an agreement without the prior written consent of Veco Precision, Customer is automatically in breach of contract. In that case, Veco Precision has the right to keep the down payment or advance payment and is allowed to execute guarantee(s) or provided securities (including but not limited to a bank security), regardless of the actual costs that Veco Precision may have incurred due to the cancellation.
- 3.9 Under the agreement, Veco Precision shall be entitled to charge the Customer separately for any extra work it has performed on Customer's instruction as soon as the amount to be charged is known and has been confirmed to Customer.
- 3.10 The minimum amount of an Order shall be 500 Euro. Veco Precision reserves the right to charge additional administration costs for any Orders with a value below this minimum amount.

Article 4 - Delivery and transfer of risk

- 4.1 The Products are delivered Ex Works (EXW) Eerbeek or Wijchen in accordance with the Incoterms. Partial deliveries are permitted.
- 4.2 Customer shall be obliged to accept delivery of the purchased Products at the moment at which in accordance with the agreement they are placed at its disposal or are delivered. If Customer refuses to take delivery or is in default with the provision of instructions or information necessary for the delivery, the goods shall be stored for the risk of Customer. All additional costs related to the storage of the Products shall be payable by Customer.
- 4.3 Veco Precision reserves the right to over- or under deliver and invoice ten percent (10%) of the agreed quantity of the Products.
- 4.4 Delivery periods announced by Veco Precision start when Veco Precision has received the agreed down or advance payment or security and end when the Products are ready for shipment. These periods are not final deadlines and they are suspended for as long as agreed payments or securities are not received by Veco Precision, or as long as the relevant technical specifications have not been received by Veco Precision.
- 4.5 An agreed delivery time shall not be a deadline, unless otherwise expressly agreed. In the event of overdue delivery Customer must therefore give Veco Precision written notice of default.
- 4.6 If any changes in the Order imply that the performance of the agreement is longer, the delivery time shall be extended by that additional time required.
- 4.7 The delivery time shall be based on the expectation that Veco Precision can perform the activities necessary for the manufacturing of the Products as has been anticipated at the time of the conclusion of the agreement and that the materials required for the performance of the agreement will be delivered promptly to Veco Precision.
- 4.8 The risk of the Products transfers to Customer in accordance with the Incoterms Ex Works or any other rules agreed between the parties under the Incoterms. If Veco Precision carries out any work on existing Products of Customer, they remain at the risk of Customer at all times.
- 4.9 Customer shall be deemed to have accepted the Products upon delivery thereof in accordance with the applicable Incoterms, unless Customer submits a written complaint regarding the goods within seven (7) days after the delivery date of the Products.

Article 5 - Government regulations, safety, sanctions

- 5.1 Compliance with many safety regulations is influenced by factors over which Veco Precision has little or no control, such as installation, lay out, the materials used in processes, processing methods, safety procedures, maintenance, training and production management and materials and other specifications required by Customer. In this connection, Veco Precision cannot guarantee that the Products will satisfy all the applicable local norms and standards. Customer shall be responsible for arranging to have the goods inspected by the local authorities charged with the supervision of safety and working conditions, prior to the goods being put into operation.

- 5.2 Customer represents that Customer is not an individual or entity with whom dealings are restricted or prohibited (a "Sanctioned Person") under any economic or trade sanctions or similar restrictions imposed by the European Union, United Kingdom, United States or the United Nations or the jurisdiction in which Customer or any party with an interest in the transactions contemplated by this agreement is domiciled (collectively, "Sanctions"). Customer represents that no Sanctioned Person has any direct or indirect interest in, participation in, or control over the agreement (whether as principal, agent, shipper, ultimate consignee, insurer, source of funding, or otherwise) and that the Products will not be resold to, transferred to, or shipped on a vessel owned, chartered, or flagged by any Sanctioned Person or any country or territory that is subject to Sanctions. Customer represents that the Order and any subsequent agreement does not and will not violate any Sanctions. Should any of the foregoing representations or covenants be breached, Veco Precision may at its sole discretion, in addition to any other remedy available at law or equity, immediately suspend or terminate performance of this agreement without further liability to Veco Precision, and Customer shall indemnify and hold harmless Veco Precision from all costs and damages arising from or relating to such breach.
- 5.3 The parties represent and warrant that, in all of their activities in connection with this agreement, they have complied and will continue to comply with all applicable regulations, laws and legislation, including, European anti-bribery and money laundering legislation, UK Bribery Act as well as any other anti-bribery, anti-corruption or conflict of interest law applicable to either or both parties ("Anti-bribery Laws"). The parties further represent and warrant that neither they nor their director, officer, employee or shareholder or sub-contractors (including a party's consultants, representatives, agents, brokers or other intermediaries, sub-contractors, subagents or other third parties that perform or will perform activities under this Agreement) have given, offered, promised, accepted or agreed to accept or authorized the giving or accepting, or will give, offer, promise, accept or agree to accept, or authorize the giving or accepting of, anything of value in violation of the Anti-bribery Laws. The parties agree that they will make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect all transactions in connection with this agreement.

Article 6 - Ownership

- 6.1 Ownership of the Products or work products resulting from the performance of any Services transfers to the Customer only if and when Customer has fully fulfilled all of its obligations ensuing from the agreement concluded with Veco Precision.
- 6.2 The Customer is not allowed to sell, encumber or pledge the Products or the work products resulting from the performance of the Services or make it available to third parties in any other way, shape or form as long as ownership has not transferred to Customer.
- 6.3 Should third parties wish to attach or exercise any rights with regard to the Products delivered under retention of title, Customer is obliged to notify Veco Precision thereof as soon as is reasonably possible
- 6.4 Customer undertakes:
- to insure the Products delivered under retention of title against all forms of damage and against theft and to keep them insured and to submit the policy of this insurance to Veco Precision for inspection on the latter's demand;
 - to pledge all claims from the Customer against insurers

- to Veco Precision on the latter's demand;
 - to mark the Products delivered under retention of title as the property of Veco Precision.
- 6.5 Unless agreed otherwise in writing, all Intellectual Property Rights ensuing from execution of the agreement accrue to Veco Precision, and Veco Precision reserves the right to register these rights in its name.
- 6.6 Unless agreed otherwise in writing, Veco Precision retains the Intellectual Property Rights to the designs, images, drawings (test) models, process parameter, tooling software, samples, etc. it makes available to Customer before or after the effective date of the agreement.

Article 7 - Warranty

- 7.1 Veco Precision does not issue any warranty (explicit or implicit) other than specifically set out in the agreement or these General Terms and Conditions.
- 7.2 With due observance of the following provisions, Veco Precision shall warrant that the Product which it supplies to Customer shall be in conformance with the agreed drawings and/or specifications. Any non-conformance or defect in the Product which the Customer detects has to be reported immediately but no later than seven (7) days after discovery of the defect to Veco Precision. The sole remedy concerning the non-conformance or defect of the Product shall be that Veco Precision, at no cost to the Customer, replaces the defective Product or parts thereof, provided that Customer can prove that the defects are a result of errors in the construction designed by Veco Precision or poor workmanship on the part of Veco Precision or poor materials supplied by Veco Precision. If the aforesaid period of seven (7) days is exceeded, Customer shall have forfeited all its rights against Veco Precision in connection with the defect(s) or non-conforming Product.
- 7.3 Veco Precision shall accept no liability for and shall not issue any warranty in respect of defects which are the result of normal wear and tear or the inappropriate storage or use of the Products and/or any use of the Products which is not in conformance with Veco Precision's use instructions. The same shall apply with regard to defects which are the result of bad or poor design, construction and/or materials required or supplied by Customer as well as alterations effected by or for Customer or pursuant to governmental regulations, and also apply with regard to discoloration which does not affect the use of the goods. In addition, all rights under these warranty provisions shall lapse if Products are not put to use within six (6) months of their delivery.
- 7.4 Veco shall use its professional efforts and competence when performing the Services. However Veco Precision does not warrant that the Services are accurate, effective, fit for purpose or useful nor does Veco Precision provide any other warranty in relation to the Services. Customer shall be solely responsible for determining whether the Services are fit for purpose. The only remedy that is provided by Veco Precision in case it is established that the Services are not performed in a professional manner is that Veco Precision will perform the Services again.
- 7.5 The warranty provisions of this article only apply if:
- Customer fulfils its payment obligations;
 - The use or other instructions provided by Veco Precision are observed.
 - Customer or a third party assembles and/or disassembles and/or repairs and/or commissions the Products delivered only with the written consent of Veco Precision;
 - The defect is not the result of normal wear and tear;

- e. Claims under the warranty are made to Veco Precision in writing as soon as possible after a defect is discovered, yet no later than seven (7) days after discovery of the defect and ultimately within six (6) months after the delivery date;
 - f. It does not concern acts or omissions by persons made available to Veco Precision by or on behalf of the Customer.
- 7.6 If Veco Precision replaces Products within the framework of its warranty obligation, the replaced Products become the property of Veco Precision the moment they are replaced and/or are made available to Veco Precision.

Article 8 - Liability for damage/loss indemnification

- 8.1 Veco Precision cannot be held liable for any damage or loss caused by non-supervisory staff of Veco Precision or third parties it has engaged, unless the direct damage or loss is the result of intent or wilful misconduct on the part of Veco Precision management.
- 8.2 Veco Precision cannot be held liable for any damage or loss to property of the Customer which it holds in its care, custody or control, but is not owned by Veco Precision.
- 8.3 Veco Precision is not liable for indirect or consequential damage or loss suffered by the Customer or third parties regardless whether the damage or loss has occurred at the Customer or a third party. Examples of indirect or consequential damage or loss are: lost profits, costs in connection with a stoppage or delay in the production process, full or partial damage to or loss of objects produced, processed and/or treated by means of the Products delivered by or on behalf of Veco Precision, loss of value, damage to goodwill and/or reputation and/or brands.
- 8.4 In the event that the agreement is (partially) dissolved by the Customer as a result of gross negligence, intent or wilful misconduct on the part of Veco Precision, Veco Precision shall not be obliged to do more or other than compensate Customer for the replacement performance up to a maximum amount equal to the contractual value of the part of the agreement which has not been performed or has been dissolved.
- 8.5 If and insofar as, despite the provisions in this article, Veco Precision could be held liable, regardless of the reason, this liability will be limited to the amount equal to the net invoice value of the Products or Services, on the understanding that Veco Precision will at all times be liable for no more EUR 50,000,-.
- 8.6 A claim for compensation lapses if Customer fails to notify Veco Precision of any facts in writing, stating all the relevant details, and hold Veco Precision liable within one (1) month of facts occurring that may constitute a ground for compensation. If Customer has notified Veco Precision and has held it liable with due observance of the provisions in the previous sentence, the claim for compensation nevertheless lapses if Customer fails to bring a legal claim against Veco Precision at the competent authorities within six (6) months of the notification
- 8.7 The limitations of liability contained in these general terms and conditions are deemed to have been stipulated also for third parties involved in the delivery of the Product by Veco Precision.
- 8.8 The Customer indemnifies Veco Precision against any and all claims from its staff and representatives and any third-party claim against Veco Precision for compensation of damage or loss suffered or allegedly to be suffered by that (third) party (partially) as a result of the use of application or use of the Products, including but not limited to product liability claims or (alleged) breaches of Intellectual Property Rights of third parties.

- 8.9 Customer indemnifies Veco Precision against any and all claims from its staff or representatives, or from third parties, for personal injury or other damage which is a direct or indirect consequence of:
 - a. any (alleged) infringement of any intellectual property rights of a third party resulting from the development, manufacture, sale and delivery of any Products (or parts thereof) based on drawings or specific instructions by Customer; or
 - b. structural/constructional features demanded by the Customer.
- 8.10 The Customer further indemnifies Veco Precision against third-party claims it receives in relation to damage sustained by the said third parties as a result of using designs, advice, studies or other services supplied or rendered by Customer and/or its staff.

Article 9 - Force majeure

- 9.1 Force majeure is taken to mean all circumstances that temporary or otherwise hamper performance of the agreement and which cannot be attributed to the party that invokes force majeure. Force majeure does in any case include strikes, measures taken by the authorities, a state of war and siege, fire, natural disasters, epidemics, acts of God, a lack of raw materials needed for the delivery of the Products, and/or transport problems during transport of the Products by Veco Precision. Force majeure, as described above, at suppliers or other third parties whom Veco Precision depends on is also regarded as force majeure suffered by Veco Precision.
- 9.2 The party invoking force majeure must report a case of force majeure within fourteen (14) days of it occurring. If the Customer invokes force majeure, Veco Precision is entitled to charge the Customer additional costs such as, yet not limited to, waiting hours and additional travel and subsistence expenses. If the situation of force majeure ends, the party that invoked force majeure must immediately report this to the other party in writing.
- 9.3 During force majeure, both parties' obligations to deliver and otherwise will be suspended. If the situation of force majeure exceeds a period of six (6) months, dissolution can take place only for those obligations not yet fulfilled and only after the six (6)-month term lapsing. In that case, the parties are not entitled to compensation of any damage or loss suffered or to be suffered as a result of the dissolution.
- 9.4 If Veco Precision has already performed a part of the agreement, be it manufacture or partial delivery, Veco Precision shall be entitled to a reasonable amount of compensation for the costs incurred in performing the agreement up to the date on which the event of force majeure commenced.

Article 10 - Confidentiality and protection of personal data

- 10.1 Both Veco Precision and Customer shall, except for applicable statutory obligations, be obliged to maintain the confidentiality of all confidential information marked as such and received from the other disclosing party for a duration of maximum of three (3) years after expiration or termination of the agreement, unless expressly agreed otherwise.

- 10.2 Veco Precision complies with the rules and regulations related to the collection and use of personal data as laid down in the European General Data Protection Regulation (EU 2016/679). Veco Precision collects personal data of Customer to the extent necessary for the performance of the agreement. All personal data are being handled in accordance with the Veco Precision Privacy Policy which can be retrieved from <https://www.vecoprecision.com/privacy>, which may be updated from time to time. For information on the policy, including data requests, an e-mail can be sent to info.vec@vecoprecision.com.

Article 11 - **Dissolution**

Without prejudice to the provisions in paragraph 9.3, the Customer can fully or partially dissolve the agreement only if Veco Precision, despite repeated notices of default giving a reasonable remedy period, fails to fulfil an essential obligation of the agreement. The Customer's right to claim dissolution in or out of court lapses six months after the facts occurred that gave rise to demand dissolution.

Article 12 - **Final provisions**

- 12.1 The Customer is not entitled to transfer rights and obligations ensuing from this agreement to third parties in any way without the written consent of Veco Precision.
- 12.2 If any provision in these General Terms and Conditions proves to be invalid, voidable or otherwise non-binding, it will be replaced with an article that reflects the nature and purpose of the invalid, voidable or otherwise non-binding provision to the greatest possible extent.
- 12.3 Provisions in these General Terms and Conditions which according to their nature are destined to survive the agreement they relate to, such as confidentiality and choice of law, will remain valid also after expiry of this agreement.

Article 13 - **Applicable law and disputes**

- 13.1 All offers made by Veco Precision and all agreements concluded with Veco Precision, as well as any agreements relating to that and all disputes ensuing from that are subject only to Dutch law.
- 13.2 All disputes arising out of or in connection with this agreement will be resolved by the Amsterdam District Court following proceedings in English before the Chamber for International Commercial Matters (Netherlands Commercial Court or NCC). An action for interim measures, including protective measures, available under Dutch law may be brought in the NCC's Court in Summary Proceedings (CSP) in proceedings in English.