

# **ROCHESTER GAUGES INTERNATIONAL S.A.**

And its division KROCH EQUIPMENT

Avenue Lavoisier, 6

**B-1300 WAVRE (Belgium)**

RPM NIVELLES - TVA BE 0440.371.387

## **ACKNOWLEDGMENT TERMS AND CONDITIONS**

### **1. OFFERS – SPECIFICATIONS - PRICES**

The description and nomenclature, which are mentioned in Seller's catalogues and brochures, are indicative and cannot lead to any engagement of any kind for him.

In the event Buyer is to specify the form, measurement, features or other specifications for goods, or to provide other information with respect to order or services, Buyer shall deliver such information and secure Seller's written acceptance of such information. Buyer is responsible for its own due diligence in evaluating Seller's goods and is solely responsible for its approval of the application of goods.

Seller's supplies are limited to those described in Seller's offers and in purchase order acknowledgment.

This acknowledgment, including, without limitation, prices, schedules and specifications set forth herein, is based upon information furnished by Buyer to Seller. Buyer believes that such information is accurate and complete. However, if any such information should prove to be inaccurate or incomplete in any material respect, Seller may, at its option and by giving written notice thereof to Buyer, make appropriate adjustments to the provisions hereof including, without limitation, prices, schedules and specifications.

Any additional supply will be invoiced separately.

Unless specified otherwise goods are sold ex works Seller's premises. Goods travel at Buyer's own risks even if they are sold carriage paid.

Seller's prices are based on the cost of materials, transport tariffs, taxes of any kind, wages and charges connected to, which are known at the time of the offer.

When supplies are invoiced, Seller reserves the right to charge any tax, deduction of any kind which would be enacted by the competent authorities and which would lead to an increase of the prices agreed upon.

Claim about Seller's invoices should be made by Buyer within fifteen days of their issues to be receivable by Seller.

### **2. DELIVERY TERMS**

Delivery terms are indicative. All dates of schedules specified in this acknowledgment are approximate and are based upon Buyer's and other parties' timely provision of information and performance of related work and obligations, necessary for Seller to perform its obligations. Delays in delivery beyond Seller's control cannot grant the right neither to the cancellation of the order nor to an indemnity of any kind.

Seller disclaims responsibility with good right in engagements in connection with delivery terms:

2.1 In case the Buyer would not respect the payment terms.

2.2 In case the Buyer would not provide the information requested by Seller in due time.

2.3 In case of force majeure or events such as: lock-out, strike, epidemic, war, requisition, fire, inundation, accident in tools and equipment, interruption or delay in transport or any other cause that would lead to total or partial unemployment for Seller or its subcontractors.

### **3. RECEIPT OF THE GOODS**

Within the three days following the receipt of the goods, the Buyer is requested to inform Seller of any anomaly, deterioration or shortcoming of equipment or parts, mistake in dispatch, etc.

This clause is valid in all circumstances, i.e. if the dispatch has occurred by third persons or by Seller.

### **4. WARRANTY – BUYER'S REMEDIES**

#### **A. General**

This warranty is extended by Seller solely to Buyer. If any item of goods covered by this acknowledgment fails to function properly because of a defect in materials or workmanship, under normal use and maintenance within the earlier twelve months after being put in service or eighteen months from the date of shipment, Seller shall, at its option and after inspection, repair or replace the defective item of goods

or refund the purchase price. Buyer must return the defective item of goods to Seller, transportation costs prepaid, with an explanation for the return. This warranty shall not apply, and Seller shall have no liability with respect to any item of goods which has been altered, damaged, misused, abused, improperly installed or repaired, or repaired with parts not supplied by Seller.

The Buyer who has not fulfilled all his obligations towards Seller in connection with the sale's contract and, more particularly, the payment terms cannot call for guarantee.

#### **B. Disclaimer**

This limited warranty is in lieu of all other warranties (except of title), express, implied or statutory, including, without limitation, implied warranties of merchantability and fitness for a particular purpose. The remedy described above is the sole and exclusive remedy, and Seller's sole obligation, whether in contract, tort or otherwise, arising out of the manufacture, sale or use of goods covered by this acknowledgment.

#### **C. Buyer's remedies**

Buyer's exclusive and sole remedies, except as provided here above, for any default hereunder by Seller, are strictly limited to either, at Seller's option, (a) refund of the price paid by Buyer for goods and services in question and return of such goods to Seller or (b) repair and/or replacement of nonconforming goods, or parts thereof, and re-performance of nonconforming services. Notwithstanding anything to the contrary, in the event this acknowledgment provides for any specified amount to be paid, or indemnification or any other specified action to be taken, by Seller, such amount or action shall constitute Buyer's sole and exclusive remedy for the circumstance or condition upon which such amount or action is based. Under no circumstances shall (i) Buyer have the right to claim or recover any punitive, exemplary, incidental or consequential damages or (ii) seller be liable, in the aggregate for any and all matters arising out of, under, or in connection with this acknowledgment, whether based on an action or claim in contract, equity, negligence, intended conduct, tort or otherwise, for more than the amount paid by Buyer for goods and services covered by this acknowledgment.

### **5. PAYMENT**

5.1 Except if otherwise written agreed, Seller's invoices are payable in cash in Euros in WAVRE net at their receipt.

5.2 All drafts and payment receipts do not constitute derogation as far as the place of payment is concerned. All discount charges and generally all other charges resulting from the collection or the negotiation of all kinds of bills remitted by the Buyer are at his charge.

5.3 Invoices unpaid at their due dates will be increased with the legal interest whose rate is published in the "Moniteur Belge".

### **6. RESERVATION IN RESPECT OF OWNERSHIP**

Seller maintains his ownership on the goods sold until full payment of their prices. Buyer undertakes the risks as from the date of delivery.

### **7. JURISDICTION**

Seller recognizes the competency of the Court of NIVELLES (Belgium) concerning all disputes in connection with either the execution or the non-execution of a contract, or the interpretation of Seller's General Terms of Sale, or any other litigation that could occur.

Wavre, on 24<sup>th</sup> August, 2010.