



**A. Shreki Import & Export  
BV**

Moerdijk M498 – Kievitweg 6  
4791RW Klundert

The Netherlands

Tel. +31 (0)168 380 805

Fax +31 (0)168 380 808

E-mail [Info@shreki.nl](mailto:Info@shreki.nl)

Website [www.shreki.nl](http://www.shreki.nl)

CC 24235480

VAT NL819295887B01

**TERMS AND CONDITIONS**

**A. SHREKI IMPORT & EXPORT IN HEAVY EQUIPMENT BV**

**1. APPLICABILITY**

- 1.1. These general terms and conditions apply to – and form an integral part of – every offer, quotation and agreement relating to the “seller” to be provided by A. Shreki Import & Export in Heavy Equipment BV located in Klundert, the Netherlands. Products of any kind, unless explicitly agreed otherwise in writing.
- 1.2. In these general terms and conditions, "buyer" means: any (legal) person who orders and / or purchases goods from or via the seller.
- 1.3. Deviation from these terms and conditions is only possible if parties have explicitly agreed in writing.

**2. FORMATION AND CHANGE OF AGREEMENT**

- 2.1. All offers, and quotations made by the seller in whatever form, are without obligation unless a term for acceptance is included in the offer. Only by written (order) confirmation from the seller or by actual execution by the seller is a contract concluded.
- 2.2. All indications in offers, quotations or agreements and the appendices thereto, such as illustrations, drawings, measurements, weights, yields and colors and in addition the properties of any test specimens provided are only indicative. Minor deviations are therefore not for the account and risk of the seller.
- 2.3. Obvious errors or mistakes in the offers of seller release it from the duty of fulfillment and / or any obligations to compensation resulting therefrom, even after the conclusion of the agreement.

**3. IMPLEMENTATION OF THE AGREEMENT**

- 3.1. Delivery takes place in accordance with the applicable Incoterm: ExWorks (af Klundert), FAS (Free Alongside ship), CFR (Cost and Freight) or CIF (Cost, Insurance, Freight). If the buyer refuses delivery at the agreed time or fails to provide information or instructions necessary for the delivery, the seller is entitled to store the products at the expense and risk of the customer.
- 3.2. Goods shall be deemed to have been delivered, as soon as the seller has informed the buyer that the items, whether or not yet to be assembled in whole or in part, are ready to be picked up by the buyer or a third party. From the moment of delivery, the delivered goods are at the risk of the buyer.
- 3.3. If the parties explicitly agree that the seller takes care of the transport of the products, both the costs and the risk of loss or damage during transport are at the expense of the buyer.
- 3.4. The notification of delivery terms in offers, quotations, agreements or otherwise is always done by the seller to the best of his knowledge and these terms will be observed as much as possible, but they are not binding.



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#### **4. PRICES**

- 4.1. All prices are in euros and are exclusive of VAT and other taxes imposed by the government. Any special extra costs relating to the import and / or customs clearance of goods to be delivered by the seller to the buyer are not included in the price and are therefore at the expense of the customer.
- 4.2. The amounts shown in the seller's offers are based on the prices, courses, taxes and other factors relevant to the price level during the offer. If after the (order) confirmation changes occur in one or more of the aforementioned factors, the seller is entitled to adjust the agreed price accordingly. If, pursuant to the present provision, a price increase is made, and the increase amounts to more than 10% of the total agreed amount, the buyer has the right to dissolve the agreement in writing within eight days after it has been or could become aware of the price increase.

#### **5. PAYMENT**

- 5.1. Payment must always take place within 8 days after the invoice date. The buyer is not entitled to set off any claim on the seller against the amounts charged by the seller.
- 5.2. The seller always has the right to deliver or invoice delivered goods per partial delivery.
- 5.3. Payment is made by cash or by transfer to a bank account designated by the seller. Seller always has the right to demand security for the payment or advance payment both before and after the conclusion of the agreement, such as suspension of the execution of the agreement by the seller, until the security has been provided and / or the advance payment has been received by the seller. If payment in advance would be refused, the seller is entitled to dissolve the agreement and the buyer is liable for the damage resulting therefrom for the seller.
- 5.4. The seller is entitled to suspend the delivery of products that it holds for the seller in connection with the performance of the agreed work until all payments due to the seller have been paid in full.
- 5.5. If payment does not take place on time, the buyer is legally in default without a notice of default being required. The seller owes legal interest to the seller from that moment as referred to in Article 6: 119a of the Dutch Civil Code.
- 5.6. In the event that no payment has yet been received after the expiry of a further payment term set by a written notice, the buyer will owe a fine equal to 10% of the principal sum due to the seller, regardless of whether the seller has had to make extrajudicial collection costs and without prejudice to the seller's right to claim compensation.
- 5.7. Without prejudice to the other rights of the seller pursuant to this article, the buyer is obliged to the seller to compensate the collection costs that the seller had to make and which go beyond sending a single summons or only doing a- not accepted- settlement proposal, obtaining simple information or compiling the file in the usual way. These costs are determined on the basis of the guidelines applicable at that time at courts in the Netherlands.
- 5.8. The applicability of article 6:92 Dutch Civil Code is excluded with regard to the penalty clause included in this article.



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**6. WARRANTY**

- 6.1. If the seller provides a guarantee to the buyer in respect of the work or products it has delivered or to deliver, it will explicitly make this known to the buyer in writing. In the absence of such express written notice, the buyer cannot invoke the warranty, without prejudice to his legal rights arising from mandatory provisions.
- 6.2. If an appeal on the buyer's guarantee would be well-founded, the seller will restore the products to be delivered to the seller's choice or deliver them as agreed, unless this would have become demonstrably pointless to the buyer. If the seller informs the buyer to proceed with the repair, the seller will return the delivered products to the buyer at its expense and risk.
- 6.3. Any warranty obligations of the seller lapse if faults, defects or imperfections with respect to those goods are the result of incorrect, careless or incompetent use or management of delivered goods by the buyer or third parties engaged by the buyer or if they are the result of external causes such as fire or water damage, or if the buyer or a third party has made changes to the goods delivered by the seller without permission from the seller.

**7. ADVERTISING**

- 7.1. Any complaints about a product delivered by the seller must be immediately communicated to the seller in writing by the buyer and must be motivated. If 48 hours after delivery of the products have expired, the buyer can no longer be justified, unless the defect at the time of the delivery would not have been perceptible in a careful and timely inspection. In that case, the buyer must inform the seller of the defect in writing and motivated within 48 hours after the lack of the buyer has become known.

**8. OWNERSHIP RESERVATION**

- 8.1. All products to be delivered and delivered by the seller remain the property of the seller under all circumstances, as long as the buyer has any claim from the seller, including in any case the purchase price, extrajudicial costs, interest, fines and any other claims as referred to in article 3:92, Paragraph 2 of the Dutch Civil Code has not been met.
- 8.2. The buyer is obliged to store the products delivered under retention of title with due care and as recognizable property of the seller.
- 8.3. The buyer is not authorized to pledge the products delivered under retention of title to third parties, to encumber them in any other way or to transfer them in whole or in part, as long as such transfer is carried out in pursuit of the usual business activities of the products delivered under retention of title of the buyer takes place.
- 8.4. If the buyer fails to comply with its payment obligations towards the seller or seller has a good reason to fear that the buyer will fall short in these obligations, the seller is entitled to take back the goods delivered under retention of title. The buyer shall cooperate and grant the seller free access at all times to its premises and / or buildings for inspection of the goods and / or for exercising the rights of the seller. After collection, the buyer will be credited for the market value, which in no case can exceed the original price that the buyer had agreed with the seller, reduced by the costs incurred by the seller from the repossession.



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**9. DISSOLUTION AND TERMINATION**

- 9.1. The buyer is deemed to be in default if he does not fulfill any obligation from the agreement or not timely, as well as if the buyer does not comply with a written warning to fully comply within a set reasonable term.
- 9.2. In the event of default by the buyer, the seller is entitled without any obligation to pay damages, and without prejudice to the rights accruing to it, to dissolve the agreement in whole or in part by means of a written notice to the buyer and / or the seller possibly to the seller, to immediately claim the amount due in full and / or to invoke the retention of title.
- 9.3. Seller is entitled to dissolve the agreement with immediate effect if the buyer requests suspension of payments or bankruptcy or is applied for or all or part of its assets are seized. All invoiced amounts will then become immediately due and payable. Seller will never be obliged to pay any compensation because of this termination.

**10. FORCE MAJEURE**

- 10.1. Seller is not liable if a shortcoming is the result of force majeure. During the period of force majeure, the obligations of the seller will be suspended. If the period in which the fulfillment of the obligations by the seller is not possible due to force majeure lasts longer than three months, both parties are entitled to dissolve the agreement without judicial intervention, without any obligation to pay any compensation.
- 10.2. The term 'force majeure' as referred to in this article in any case means unforeseen circumstances, also of an economic nature, which have arisen without fault or the actions out of hand of the seller, such as, among other things, serious disruption in the company, forced downsizing of the production, strikes and exclusions, both at seller and at supply companies, war, hostilities, state of siege, mobilization, either in the Netherlands or in any other country where any branches of seller or subcontractors are established, delays in transport or delayed or faulty delivery of goods or materials or parts by third parties including supplier supply companies.
- 10.3. If the seller has already partially fulfilled its obligations upon the occurrence of force majeure, or can only partly fulfill its obligations, it is entitled to invoice the already delivered or the deliverable part separately and the buyer is obliged to pay this invoice as if it concerned a separate agreement.

**11. LIABILITY**

- 11.1. Seller is only liable for damage the buyer suffers, if and to the extent that such damage is the direct result of intent or deliberate recklessness of the seller.
- 11.2. The total liability of the seller shall in all cases be limited to compensation for direct damage, whereby the total amount to be paid by the seller to the buyer due to any cancellation obligations and compensation of damage shall never exceed the amount of the amount for the agreement stipulated price (excluding VAT).
- 11.3. Seller is not liable for damage, if and insofar as the buyer has insured against the relevant damage or could reasonably have insured.



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**12. DISPUTES AND APPLICABLE LAW**

- 12.1. If there is a lack of clarity regarding the interpretation of one or more provisions of these general terms and conditions, then the interpretation of that provision (s) must take place 'in the spirit' of these general terms and conditions.
- 12.2. Dutch law is applicable to an agreement concluded with the seller. Foreign legislation and treaties including the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Sales Convention) are excluded.
- 12.3. Any disputes relating to this agreement or arising from this agreement will in the first instance be settled exclusively by the competent court in the district in which the seller is established at the time of concluding this agreement.