



**AMERICAN GFM CORPORATION  
TERMS AND CONDITIONS OF  
SALE FOR SPARE PARTS**

Tel: (757) 487-2442  
Fax: (757) 487-4712

**INTRODUCTION**

These terms and Conditions of Sale for Spare Parts shall apply, except as varied by express agreement accepted in writing by both parties. "We" or "our" refers to American GFM Corporation and "you" or "your" refers to the buyer buying goods hereunder.

**1. PRICES AND SHIPPING TERMS:**

- a. Prices are subject to change without notice at any time prior to acceptance of your order by our office.
- b. Prices become firm upon our acceptance of your order as evidenced by our written acknowledgment.
- c. Prices do not include freight or insurance.
- d. Shipping Terms are F.O.B. our factory; however, at your request we will arrange for freight and insurance in accordance with your directions, the cost of which will be invoiced as a separate line item on your invoice.
- e. Prices are subject to an increase equal in amount to any tax we may be required to collect or pay upon the sale of the spare parts covered by your order and any tax (other than income tax) on us measured in whole or in part by the amount of such sale. If not included in the invoice for such products, such amount may be invoiced at a later date.
- f. We reserve the right to increase prices to reflect the impact of any tariffs, duties, or similar governmental charges imposed upon the spare parts covered by your order after the date of our confirmation form or proposal form. If not included in the invoice for such spare parts, such amount may be invoiced at a later date.

**2. SECURITY INTEREST:**

We reserve a purchase-money security interest in the spare parts delivered pursuant to your order and in any proceeds thereof, including accounts receivable until payment therefore has been made in full. You hereby agree to sign, upon our request, any document necessary to perfect our security interest

**3. PAYMENT TERMS:**

- a. Payment terms for your order will be set out on the face of our confirmation form or proposal form; otherwise, net payment for your order is due thirty (30) days after delivery.
- b. Each shipment shall be considered a separate and independent transaction and payment therefore shall be made accordingly.

**4. SHIPMENT SCHEDULE:**

Prior to receiving your order, we can give you an approximate shipment date. The date of shipment is governed by the number and types of spare parts already in stock or on our work schedule when we receive your order. We will give you a firm shipment date at the time you place your order and its

**American GFM Corporation, 1200 Cavalier Blvd., Chesapeake, VA 23323**



acceptance is confirmed in writing by our office. The shipment date is subject to delays described in Section 11 below.

**5. WARRANTY OF MATERIAL AND WORKMANSHIP:**

- a. The spare parts covered by your order which are manufactured by us ("AGFM spare parts") are warranted against defects in material and workmanship for ninety (90) days from the date of shipment, provided that, during this period, they have remained in your possession as original user and that they have been given normal and proper usage as specified by us.
- b. During the AGFM spare part warranty period, we will repair or replace free of charge, F.O.B. our factory, any AGFM spare part which our inspection shows to be defective, provided that, upon our request, you return to us at our expense the AGFM spare part.
- c. In no case shall any AGFM spare part be returned to us pursuant to Subparagraph 5(b) above without our prior written authorization.
- d. This AGFM spare parts warranty (and any additional warranty of representation expressly set forth in writing by us as a part of your order) is in lieu of all other warranties express or implied. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE IS GIVEN HEREUNDER.
- e. We give no warranty, express or implied, for any spare parts covered by your order which are not manufactured by us ("Third Party spare parts"). However, to the extent permissible pursuant to the original manufacturer's own terms and conditions of sale, we will pass on the warranty provided by the manufacturer.

**6. LIMITATION OF LIABILITY:**

- a. Our liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with, or resulting from your order or from the performance or breach of the terms thereof, or from the design, manufacture, sale, delivery, resale, installation, technical direction of installation, inspection, repair, operation or use of any spare parts thereof shall in no case extend beyond the repair or replacement of defective spare parts thereof.
- b. Under no circumstances shall we have any liability whatsoever for loss of use or for any indirect, incidental or consequential damages, including loss of production and profits, labor and material expended, damage to work pieces, overhead costs or other loss or expense incurred by you, attributed to defective spare parts or to delay in delivery of any spare parts sold hereunder.

**7. SAFETY AND INDEMNIFICATION:**

You shall use and shall require your employees to use and follow all guards, safety devices and operating instructions provided with the spare parts. We shall have no responsibility where such guards, safety devices or instructions have been altered or removed, or where the spare parts have



been modified, repaired or rebuilt with parts other than those supplied by us and you shall indemnify and save us harmless from any liability or obligation incurred by us by reason thereof.

**8. DESCRIPTIONS, SPECIFICATIONS, ETC.:**

The designs and specifications of all spare parts sold by us are subject to change without notice and in the event of any such changes we will have no obligation whatsoever to make similar changes to any spare parts previously ordered by you. No designs, specifications, drawings, models, samples, affirmations or other data and particulars issued in writing or verbally by us or on our behalf in connection with your order shall be warranted, nor will we be bound thereby unless such information is confirmed in writing as a term of your accepted order.

**9. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970:**

- a. We will make our best efforts to ensure that all spare parts comply with the standards promulgated under the Occupational Safety and Health Act of 1970 where such standards are specific. The balance of the standards will be complied with as interpreted by us on a best-efforts basis. If your interpretation differs significantly from ours, we reserve the right to separately quote the additional costs to comply with the standards as you might interpret them.
- b. Since these standards are continually evolving and since they are subject to considerable interpretation by a third party, we cannot guarantee or warrant compliance with such standards. Such compliance shall be solely your responsibility.

**10. CANCELLATION, DELAYS:**

- a) You may not cancel all or part of your order without our written consent. In the event we give you our consent to the cancellation of your order, you shall be obligated to pay us immediately a cancellation charge for the full costs of all of our work performed on your order, including, without limitation, all overhead costs and profit on all work completed (as determined by us) in accordance with our standard accounting practices, plus 20% of the total purchase price of your order, plus a charge for any packing, storage and shipping.
- b) We hereby reserve the right to cancel your order at any time. In the event we cancel your order, we shall in no event be liable to you for any claims, liability, loss, damage or expense incurred by you as a result of or in connection with such cancellation.
- c) Upon completion of your order, if shipment is delayed due to your failure to provide necessary information, inspections, approvals or any other action on your part, we may invoice you for full payment at the time we are prepared to make shipment and full payment shall be due immediately. The title to spare parts held for you in our plant shall thereupon pass to you; risk of loss and expense shall be in you, unless otherwise agreed; and we reserve the right to make a reasonable storage charge for the spare parts held for you.



**11. DELAYED PAYMENTS:**

Any past due amounts owed by you under these terms and conditions shall accrue interest at the rate of fifteen percent (15%) per annum until paid. In addition, you shall be liable for any attorneys' fees or court costs incurred by us in collecting any past due amounts from you.

**12. FORCE MAJEURE:**

Neither party hereto shall be liable to the other for delay in the performance of, or failure to perform, any of its obligations under these terms and conditions if such delay or failure is directly or indirectly caused by or in any manner arises from fires, floods, accidents, riots, acts of God, government interference or embargoes, strikes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays or any other cause or causes beyond the control of either party. In the event of any such delay, either party may cancel the order relating hereto.

**13. ACCEPTANCE OF ORDERS:**

Orders are subject to acceptance only at our office and only in writing and no contract shall be deemed to have been created until such written acceptance has been mailed or delivered to you by us.

**14. TITLE:**

Except as provided in Paragraph 10 above, delivery of spare parts to the carrier by us, consigned to you or as you may direct, shall constitute transfer to title, ownership, possession and property in and to the spare parts at such point of delivery and such carrier shall thereafter be deemed to be acting for you and the equipment shall thereafter be at your risk.

**15. INSTALLATION SUPERVISION:**

Installation supervision is not included in the prices quoted, unless specifically stated and shall be the subject of a separate quotation.

**16. PATENTS:**

You shall hold us harmless for any expense or loss resulting from infringement of patents or trademarks arising from compliance with your designs or specifications.

**17. GOVERNING LAW, ENTIRE AGREEMENT, ETC.:**

- a) Any accepted order and these terms and conditions for spare parts shall be governed by and construed in accordance with the laws of the State of Virginia.
- b) Your order as accepted in writing by us and these terms and conditions for spare parts contain the entire agreement between us with respect to spare parts and there are no representations, understandings or agreements, oral or written, which are not included therein. Our failure to exercise any right hereunder, or to take any action permitted on a breach by you, shall not be deemed a waiver thereof or of other rights or breaches of a like or different nature. No waiver



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shall be effective unless specifically made in writing and signed by a duly authorized representative of the party making such waiver. This agreement cannot be changed except by the duly authorized representative of both parties in writing.