

## **TERMS OF SALE AND DELIVERY**

### **Use**

1. The terms below apply to all offers, orders, deliveries etc. unless otherwise agreed in writing or specified in the order confirmation. Terms specified in the buyer's order, acceptance letters etc. are not binding unless the seller has accepted them in writing.

### **Cancellation**

2. Cancellation of orders can be made only with the seller's written consent and against payment of any cancellation costs.

### **Prices**

3. The prices are current prices ex VAT for products in stock. Prices for products not in stock are the prices specified in the offer, subject to new or increased rates of duty. Delivery and invoicing of products not in stock take place at the prices specified in the offer subject to new or increased rates of duty, changes in foreign exchange rates and special taxes and duties, transportation costs, insurance premiums, port fees or other similar charges as well as increase in applicable labour costs, costs of materials etc.

### **Product information**

4. Product information and price lists are only binding to the extent that the agreement expressly refers to them.

### **Drawings and other technical documents**

5. All drawings and other technical documents concerning the equipment or the manufacture thereof which are handed over from one party to the other party before or after the conclusion of the agreement belong to the party having handed them over. Received drawings, other technical documents or technical information may not be used to any other effect than intended by the handing over without the other party's consent. Without the other party's consent, the said material may not be copied, reproduced, handed over to or otherwise come to the knowledge of a third party.

6. The seller must, no later than on delivery, provide the customer with one or a larger number of agreed copies of drawings and other technical documents, free of charge, adequately detailed for the buyer to perform installation, commissioning, operation and maintenance (including ongoing repairs) of all elements of the equipment. However, the seller is not obliged to hand over drawings and documents forming the basis for the production of the equipment or spare parts.

### **Samples**

7. If the delivery of samples has been agreed, the samples must be made where the equipment is produced unless another place has been agreed. If technical requirements for the sample are not specified in the agreement, it must be produced in accordance with usual practice in the said industry in the country in which the equipment is manufactured.

8. If the sample turns out to be non-contractual, the seller must ensure that the sample is brought into conformity with the agreement as soon as possible. A new sample must then be made at the request of the buyer. If the defect was immaterial, no new sample may be demanded.

9. Unless other distribution has been agreed, the buyer pays all costs incidental to the delivery of samples.

### **Delivery**

10. If a delivery clause has been agreed, it must be interpreted under the Incoterms in force when the agreement was concluded. If no delivery clause has been agreed, delivery is deemed to have taken place "Ex Works".

### **Time of delivery**

11. If the parties have specified a time period within which delivery must take place, instead of a fixed time of delivery, this time is deemed to run from the conclusion of the agreement.

12. The time of delivery is specified at our best estimate. Delivery for up to two weeks after the time of delivery specified in the order confirmation must in every respect be deemed timely.

### **Delay**

13. The seller informs the buyer of any delivery obstacles entailing that due delivery, see clause 12, cannot be made, and where possible with the information on when delivery may be expected. If a delivery obstacle is deemed to persist beyond two months from the due delivery time specified in clause 12, the seller is entitled to cancel the order in which event this is not deemed breach of contract.

If the delivery obstacle persists beyond two months after the due delivery time specified in clause 12, the buyer is also entitled to terminate the purchase at request if the seller fails to deliver before a reasonable deadline specified in the request.

Any claim for damages based on delays is of no concern to the seller unless the buyer establishes that the seller has been grossly negligent. In all events, the seller is without liability for any indirect damage. Seller is not responsible for delayed delivery from the seller's usual supplier, irrespective of the reason.

14. If the buyer finds that they will not be able to receive the equipment on the agreed date, or if delay on the buyer's part must be considered likely, the buyer must notify the seller in writing to that effect without undue delay and also state the reason for the delay and, to the extent possible, the date when receipt can be expected to take place.

If the buyer fails to receive the equipment on the agreed date, the buyer is nevertheless obliged to pay any payment conditional on delivery as if delivery of the said equipment had been effected. The seller must ensure that the equipment is stored at the buyer's expense and risk. At the buyer's request, the seller must insure the equipment at the buyer's expense.

15. The seller may urge the buyer in writing to receive the equipment within a reasonable time. If the buyer fails to do so within such deadline – for reasons for which the seller is not responsible – the seller is entitled, on giving the buyer written notice, to cancel the agreement for the share of the equipment ready for delivery and not delivered owing to the buyer's non-performance. In such event, the seller is entitled to compensation for the damage inflicted on the seller owing to the buyer's breach. The compensation cannot exceed the part of the purchase price covering the part of the equipment comprised by the cancellation.

### **Payment**

16. If the buyer fails to pay at the agreed time, the seller is entitled to default interest, which is the official discount rate plus 5 percentage point, from the maturity date.

### **Liability for non-conformity**

17. The buyer is obliged to inspect the product on arrival to its destination. Complaints in relation to quantity defects and type of product must be made at once and no later than eight days from receipt of the products.

18. If within one year of the delivery, quality defects in the products delivered are established, the seller undertakes at its own choice: to repair defective parts which are returned to the seller's address, carriage paid, to replace the defective product(s) which are returned to the seller's address, carriage paid, with similar product(s) in accordance with the terms of sale and delivery, to grant the buyer a proportionate reduction in the purchase price of the product.

The seller's obligation is on the condition that the buyer complains in writing to the seller immediately, however, no later than 14 days after the said defect has been or ought to have been ascertained.

The seller has no obligations in addition to those specified above unless the buyer establishes that the seller has been grossly negligent.

The seller is not liable for defects ascribable to erroneous treatment, use, transportation, storage, installation or other neglect by others than the seller.

In all events, the seller is without liability for indirect losses.

19. For parts which have been replaced or repaired according to clause 18, the seller undertakes the same obligations applicable to the original equipment for a time period of one year. As regards other parts of the equipment, the period mentioned in clause 18 is only extended by the period during which the equipment could not be used as a result of the defects specified in clause 18.

20. In the event of a complaint under clauses 17 or 18, the buyer must give notification of the defect in writing. The notification must include a description of how the defect reveals itself. If there is reason to believe that the defect can entail a risk of damage, such notification must be given at once. If the buyer fails to inform the seller of a defect within the time limits specified in clauses 17 and 18, the buyer forfeits its right to make claims in relation to the defect.

21. If the buyer has given such notification as mentioned in clause 20, and it turns out that there is no defect for which the seller is liable, the seller is entitled to compensation for the work and the costs incurred by the complaint.

22. Defective parts which are replaced under clause 18 are made available to the seller and become the seller's property.

23. The seller's liability only comprises defects which occur under working conditions as assumed in the agreement and under correct use of the equipment. The liability does not extend to defects owing to causes arising after the risk has passed to the buyer. For example, the liability does not comprise defects owing to defective maintenance, incorrect installation carried out by the buyer, changes made without the seller's written consent or repairs performed erroneously by the buyer. Finally, the liability does not cover fair wear and tear.

24. The seller has no liability for defects in addition to the liability specified in clauses 17-23. This applies to any loss which the defect may cause, business interruption, lost profit and other financial consequential losses. This limitation in the seller's liability does not apply if the seller is guilty of gross negligence.

#### **Liability for damage to property caused by the equipment (product liability)**

25. The seller is not liable for damage caused by the equipment (a) to real property or chattels which occurs while the equipment is in the buyer's possession or (b) to products manufactured by the buyer or to products in which the equipment is included, or for damage to real property or chattels which these products cause owing to the equipment.

In any event, the seller is not liable for damage to real property or chattels unless the seller is guilty of gross negligence.

In no event is the seller liable for business interruption, lost profit, other financial consequential losses or other indirect losses.

If product liability is imposed on the seller vis-à-vis a third party, the buyer is under an obligation to indemnify the seller to the same extent as the seller's liability is limited under the above provisions.

If a third party claims compensation for product damage from one of the parties, this party must immediately inform the other party.

#### **Exemption from liability (force majeure)**

26. The following circumstances result in exemption from liability if they prevent the performance of the agreement or makes the performance unreasonably onerous: industrial conflict or any other circumstances beyond the parties' control, such as fire, war, mobilization or call-up to the military of a similar extent, requisition, seizure, currency restrictions, rebellion or civil disturbances, lack of means of transport, general scarcity of goods, restrictions on power and defects in or delay of deliveries from sub-suppliers owing to any of the circumstances specified in this clause. Circumstances as mentioned only entail exemption from liability if their effect on the performance of the agreement could not be foreseen when the agreement was concluded.

#### **Disputes Governing law**

27. In the absence of an amicable solution, all disputes in relation to the agreement and everything in this connection, including the delivery specified in the order confirmation, must be determined in the seller's country and according to Danish law. The Court of Glostrup has been agreed as the venue.

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