

Terms and Conditions of Sales and Delivery – Merton A/S

1. **Application**
- 1.1 The following terms and conditions of sales and delivery apply to any delivery from the Vendor, unless otherwise agreed by the Parties in writing.
2. **Offer**
- 2.1 The Vendor's offer lapses after a period of eight days, unless otherwise stated.
3. **Quantity**
- 3.1 Unless otherwise agreed in writing, the Vendor's supplier's terms and conditions pertaining to reduced or excess deliveries will apply.
4. **Delivery**
- 4.1 If a delivery clause has been agreed, this clause will be interpreted pursuant to the Incoterms applicable at the time of the date of commencement of the agreement including any amendments that may be made in consequence of the present terms and conditions of sales and delivery.
- 4.2 If no delivery clause is agreed, Ex Works delivery is deemed to be agreed.
5. **Delivery time and delays**
- 5.1 Delivery will be made by agreement with the Purchaser. The risk on goods delivered will be transferred to the Purchaser when the Vendor makes the goods available to the Purchaser at the place of delivery.
- 5.2 The delivery times given by the Vendor are approximate until the Vendor has confirmed the final delivery date. If a delay in delivery is caused either by circumstances described in clause 13 which grant freedom from responsibility, or by the Purchaser's circumstances, the delivery time will be prolonged by a period which, is deemed reasonable in the given circumstances.
- 5.3 The Vendor cannot be held responsible for any indirect losses caused by a delay, including operational losses, loss of profit and other consequential financial losses.
- 5.4 Where custom-made products are concerned, the Purchaser does not have the right to cancel the purchase on grounds of delay, regardless of its materiality. In any case, the Purchaser is only entitled to cancel the purchase if cancellation can be made at no cost to the Vendor.
6. **Responsibility for defects and claims**
- 6.1 Immediately after receipt of the goods and before taking them into use, the Purchaser must inspect the goods delivered to ensure that they are not defective. The Vendor must be notified in writing of any claim for a defect no later than eight days from date of delivery, unless otherwise agreed in writing. If the Purchase fails to meet this deadline, the Purchaser will not have access to claim for defects. On discovery of a defect, the Purchaser must immediately cease further processing.
- 6.2 The Purchaser is obliged to investigate whether the goods are suitable for the purpose for which it/they was/were intended, including the processes, to which the goods will be subjected. The Purchaser is thus obliged to check the dimensions, quantity and quality of the goods delivered.
- 6.3 At the Vendor's discretion, defects may be remedied if the goods have not been processed. Alternatively, the Vendor may choose to deliver a replacement. Once the Vendor has remedied the defect or delivered a replacement, the Purchaser no longer has access to claim for further defects, nor is the Purchaser entitled to cancel the agreement, claim a reduction in the purchase price or claim compensation.
- 6.4 The Vendor cannot be held responsible for indirect losses, which may be caused in pursuance of his responsibility for defects, including operational losses, loss of profit or other consequential financial loss. Additional wage costs and costs incurred in connection with the replacement of goods, for which there is a justifiable claim, will not be indemnified.
- 6.5 A claim for compensation in connection with any other losses can never exceed a sum corresponding to the purchase price of the goods in question.
7. **Payment**
- 7.1 Unless otherwise agreed, the due date of payment will be 8 (eight) days from delivery and dispatch of the invoice.
- 7.2 Any cash discount will be exempt from VAT and other duties.
- 7.3 If the Purchaser fails to receive the goods on the agreed delivery date, the due date of payment will notwithstanding remain the same, i.e. as if the delivery had taken place according to the agreement.
- 7.4 If the Purchaser fails to pay by the due date of payment, the Vendor is entitled to charge interest in pursuance of the Danish Late Payment of Commercial Debts (Interest) Act in force at any time, unless a higher or lower rate of interest is specifically agreed.
8. **Exchange rate provision**
- 8.1 When invoicing the Purchaser, the Vendor is entitled in either direction to regulate any part of the price of the goods and freight costs which the Vendor is obliged to pay in a foreign currency, in accordance with the exchange rate applicable on the day the Vendor settles the foreign currency payment of his purchase. The Vendor is similarly entitled to regulate payment if the price is based on a specific correlation to a second foreign currency.
9. **Warranty**
- 9.1 Any warranty provided by the Vendor covers only the scope of the warranty provided by the Vendor's supplier on the goods in question. Specifications, instructions and recommendations of any kind, and information pertaining to the size, weight, and other characteristics of the goods stated in catalogues, brochure material, etc., or provided orally, are only binding if they are specifically mentioned in the order confirmation. Any technical guidance and support is exclusively regarded as a service, for which no liability for damages is applicable.
10. **Insurance premiums, duties, etc.**
- 10.1 Prices, including marine and war risk insurance, freight rates, foreign currency duties, bank transfer fees, import and export duties, customs duties, etc., are calculated based on the premiums, rates, duties, etc. valid on the purchase date.
- 10.2 In connection with invoicing, the Vendor is entitled to regulate the purchase sum for any changes in the costs referred to in clause 10.1. as well as any extra costs that may be incurred as a result of new duties, deposit schemes or similar incurred (or enforced) after the signing of the purchase agreement.
11. **Retention of title**
- 11.1 The Vendor or a party to whom the Vendor has assigned title, will retain title to the goods until the purchase sum, including interest, costs, etc., is paid in full. The Purchaser is obliged to take out appropriate insurance to insure the goods against theft, burglary, fire, etc.
12. **Product liability**
- 12.1 The Vendor does not accept liability for personal injury or damage to property over and above any liability he may have as a result of indispensable rules of law. The Vendor is not liable for indirect damage, consequential damage, operational losses, loss of profit and the like.
- 12.2 The Vendor does not accept liability for damage caused to the Purchaser's goods in connection with the Purchaser's commercial use, etc. of the same.
- 12.3 To the extent that a claim is lodged against the Vendor in connection with the Purchaser's use of the goods, including resale, the Purchaser is obliged to indemnify the Vendor of any liability, the Vendor may thus be assigned.
- 12.4 The period of liability is maximum one year. The Vendor's liability for product damages may never exceed the cover sum in the Vendor's product liability insurance.
- 12.5 The Purchaser is obliged to allow charges to be brought against him at the same court of law that hears a claim for compensation against the Vendor in connection with the goods sold. If the Parties cannot reach an agreement, the mutual relationship between the Vendor and Purchaser will, however, always be determined in agreement with the provisions in Clause 14.
13. **Freedom from responsibility (force majeure)**
- 13.1 The Vendor cannot be held liable for losses incurred as a result of circumstances beyond the Vendor's control, the occurrence of which the Vendor could not or ought not to have foreseen in signature of the agreement, including, but not limited to, IT break-downs, labour market conflicts and a delay, declaration of bankruptcy or suspension of payments by a sub-supplier. The same applies in the event of any circumstances beyond either Party's control, including fire, armed conflict, mobilisation or a similar level of military call-up, government seizures, foreign currency restrictions, civil unrest, shortages of fuel and means of transportation, other general shortages, strikes or any other type of industrial action.
14. **Disputes and legal venue**
- 14.1 Any dispute between the Parties will be heard at an ordinary Danish court of law, although the Court in Viborg is the agreed legal venue. Disputes will be settled in accordance with the ordinary tenets of Danish Law.