

Sales and Delivery Terms for Triarca A/S

1. APPLICATION

All sales of the seller's products are made according to the following conditions which have preference to any stipulations laid down in the buyer's order / acceptance, including buyer's general conditions, unless otherwise stated in a written agreement, and in that case with an exact indication of the points from which these sales and delivery conditions are deviating.

2. QUOTATION AND ORDER CONFIRMATION

Quotations made by the seller are open for 30 days from the date of the offer, unless otherwise specified.

3. PRODUCT INFORMATION

Information and technical data on seller's products stated in catalogues, leaflets and other written material are only to be considered as approximate and not binding on seller, unless a written agreement explicitly states otherwise.

All drawings and technical specifications handed over to buyer prior to or after entering into an agreement remain seller's property. No material must be used or copied by the buyer without the seller's written permission, neither must it be reproduced, handed over nor brought to the knowledge of a third party for another purpose than the performance of the agreement made. Failing an agreement, all documentation handed over should be returned to seller, and also in that case no copying or general use of the material can be made, nor must it be brought to the knowledge of a third party.

The seller is not responsible for the buyer's selection of the product, including compatibility of the product, its use and results, unless the contract explicitly refers to these.

The seller undertakes no responsibility for the buyer's selection of potential supplementary equipment and service requested for use with the product as well as application and results of same.

The seller reserves the right to modify his products without notice as far as such modifications do not cause major restrictions of the applications.

4. ALTERATIONS AND RETURNS

The seller reserves the right to alter prices in case of major changes of rates of exchange, increased prices for raw materials, political events or other conditions which the seller cannot control, unless a written agreement states that the seller is not entitled to make such reservation. Alterations to confirmed orders must be agreed in writing with the seller. If manufacturing of the goods has started, the seller is to be held free of any costs.

Return goods must be agreed with the seller, and can only occur once a return number is received from the seller. Return number must be indicated on the shipment. Return freight and fee is paid by the buyer. The goods must be unused and packaging intact. The goods are inspected after receipt, and any damages of the goods will be covered by the buyer and will appear in the credit note.

5. PASSING THE RISK

The risk for the product is passed upon delivery, unless otherwise agreed in writing. Unless another delivery type is agreed and appear on the order confirmation, the delivery is according to EXW, Hornsyld according to the always current INCOTERMS.

6. TIME OF DELIVERY; DELAYS

The agreed time of delivery is only approximate and subject to full approval of the contents of the agreement, for instance accepted drawings.

The seller is never responsible for delays, unless such delays are owing to gross negligence on his part.

The seller is never responsible for operational losses, loss of profit, loss on goods kept in stock, loss caused by delayed building activities or other contract work or any other direct or indirect loss or direct or indirect costs caused by delayed deliveries.

If delays should occur, and if, at the buyer's request, the seller cannot state a delivery period, the buyer has the right to cancel the order and demand reimbursement of potential (pre)payment, provided that the products have not been made especially to the customer's specifications.

Above statement defines the seller's maximum responsibility in relation to delays.

7. PAYMENT, RETENTION OF OWNERSHIP UNTIL PAYMENT IS MADE

The seller reserves for himself the right of ownership until the agreed price has been paid.

In that case it is the buyer's duty to take out an insurance on the goods against any damage from the date of the passing of the risk until the agreed price has been paid. The insurance should cover full and new value of the goods in question.

Until close to the date of delivery, the seller has a right to demand, and the customer is bound to give a banker's guarantee payable on demand in an acknowledged bank for the total purchase sum including costs and outlays. As far as mounting and servicing is concerned, the seller is justified to demand at any time, and the buyer is liable to give a banker's guarantee payable on demand in an acknowledged bank for the agreed payment or partial payment, including costs and outlays, if any.

For delivery of products that should form part of another product, the seller is entitled to demand at any time, and the buyer is liable to give a banker's guarantee payable on demand in an acknowledged bank for an amount corresponding to the purchase sum for the parts entered at the time in question, but not yet paid. If the buyer does not give such a banker's guarantee on request, the seller is entitled to consider the agreement(s) non-fulfilled, wholly or partly, and the seller is entitled to claim delivery of products that have not been used and not paid. The buyer is thus unable to work with or otherwise use such products.

Payment has to be made at the time stated in the quotation or the order confirmation. If the buyer does not pay in due time, the seller reserves for himself the right to charge 2% interest on late payments for each new month. The same interest is charged if a respite has been granted. The buyer is not entitled to keep back payments or to set off against asserted claims that have not been accepted by the seller. If the buyer does not want to receive the lot at the time agreed, he is obliged to pay as if delivery had been made according to the agreement.

8. PACKING

Disposable packing has been included in the price and will not be refunded in case of a possible returning.

Multi-way packing is invoiced according to the sellers' current daily price.

9. TOOLS

Applied tools which have been debited to the buyer wholly or in part, according to agreement, remain in the seller's warehouse, but are not delivered. The seller takes care of the proper maintenance of these tools. If such tools are not used for 3 years, the seller is no longer bound to keep and maintain them. No liability rests with the seller for tools lent by the buyer, if they have not been used for 2 years and not been demanded by then.

10. PROPERTY / INCORPOREAL RIGHTS

The buyer does not acquire property and / or inventor's rights / other incorporeal rights to any computer programmes used for the product, nor any drawings, design, technical solutions etc. whether individually made for the buyer on his account or not, since the buyer is only entitled to use such material in relation to the agreed application of the product.

11. RESPONSIBILITY FOR VIOLATION OF PATENT AND OTHER INCORPOREAL RIGHTS

If there should be a risk, or if it is asserted that the product infringes a patent or another incorporeal right, the buyer accepts that, at his own option, the seller is either allowed by the proper party to continued use or he changes or replaces the product, so that it no longer gives rise to an infringement.

If none of these alternatives can be achieved on terms that the seller finds reasonable, he can claim that the buyer refrains from using the product against an allowance from the seller corresponding to the value of the product after depreciation with equal amounts every year compared to the technical and economical life of the product.

The size of such an allowance is not dependent on the question whether the product is integrated into another product or a building etc., and it is not influenced by the loss which it and / or discontinuance of use might cause the buyer.

In case of resale of the product, the buyer is liable to include an identical stipulation in the agreement between buyer and buyer's customer, including instruct the customer to include an identical stipulation for the

customer's possible resale.

The seller's maximum responsibilities as to any potential infringement of the patent or another incorporeal right are defined above.

12. COMPLAINTS

Immediately on receipt and prior to taking the products into use, the buyer should inspect the goods supplied to ensure that there are no shortcomings and that the correct quantity has been supplied.

Complaints of defects which have been found or should have been found at a general inspection must be made at once and not later than 8 days after receipt of the products. If the complaint is not made within the time limit stated, the buyer loses his right to put forward a claim.

Complaints of discrepancies in quantity and damages to the product should be made immediately to the carrier, if any, and to the seller.

Otherwise, the buyer loses his right to complain of such faults.

13. RESPONSIBILITY FOR SHORTCOMINGS

Provided that the agreed terms of payment are kept, and that complaints are made in due time, the seller will remedy any shortcomings that turn up during a period from 12 months from the delivery date. The responsibility does not comprise deficiencies caused by factors arisen after the risk has passed over to the buyer.

Remedy is only made by adjustment, repair or replacement of (parts of) the product or its components according to the seller's option. Wages paid for dismounting and mounting will not be refunded. If dismounting and mounting should affect more than the product, such work and costs are irrelevant to the seller as well. The buyer has to send the seller a written complaint with details of the deficiency without undue delay. Photo documentation of the product's type label and proof of purchase in the form of an invoice is required. Photo documentation of the product's type label and proof of purchase in the form of an invoice is required. The complaint should be made immediately, if there is reason to believe that damages might be involved. If the buyer does not advise the seller of a deficiency within the time limit stated, the buyer will lose his right to make a claim.

Return of repaired parts or return of the product is paid by the seller who takes over replaced parts, if any. Unless otherwise agreed, the buyer will pay such additional costs that may arise if the product is situated at another place than the destination stated in the agreement, or, failing such information, the place of delivery.

If the product has been changed or someone else than the seller or a repair man appointed by the seller has tried to repair the product, or if the product has been subject to damages or used for unfit purposes, or if installation, operation and maintenance are not in compliance with the seller's stipulations, the seller can refuse to remedy the deficiency free of charge.

Deficiencies caused by conditions for which the buyer or someone else is responsible, or which are not announced until after expiration of the remedying period, are not the seller's business.

The seller's responsibility does not include deficiencies arisen in materials provided by the customer or by a co-producer / supplier appointed by the customer or in constructions ordered or specified by him. If the seller does not meet his obligations within a reasonable time, the buyer can claim a proportional reduction of the purchase sum, but not more than 15% of the agreed purchase sum. In case of a vital deficiency, the buyer can cancel the agreement by a written notice to the seller, at the same time demanding compensation for his loss, i.e. max. 15% of the agreed purchase sum.

Above conditions are the seller's maximum obligations concerning shortcomings. So the seller is neither responsible for direct nor indirect losses, including operational losses, loss of profit as well as costs or damages etc.

14. LIABILITY FOR CAUSING DAMAGES (PRODUCT LIABILITY)

The seller is responsible for personal injuries according to the legislation concerning product liability.

The seller is not responsible for damages to real and personal property which occurs while the product is in the buyer's possession. Nor is the seller responsible for damages to products made by the buyer or products comprising such parts. Furthermore, the seller is only responsible for damages to real and personal property, if it can be proved that the damage is caused by mistakes or negligence made by the seller or others whom the seller is responsible for.

The seller is not responsible for operational losses, loss of profit or other indirect losses.

If a product liability towards a third party has been imposed on the seller, the buyer is committed to indemnify the seller to the same degree as the seller's responsibility stated in the three previous paragraphs.

These limitations of the seller's responsibility are not valid, if the seller has shown gross negligence.

If the third party claims compensation from one of the parties in accordance with this point, he should advise the other party immediately.

The buyer is bound to let the court or arbitration tribunal bring an action against him which deals with claims made against the seller for damages assertedly caused by the product.

15. FORCE MAJEURE

The seller's obligations are suspended and can be dropped when missing fulfilment is owing to conditions beyond the seller's control.

16. CONSUMERS' PURCHASES IN DENMARK

For consumers' purchases in Denmark the stipulations laid down in the Sale of Goods Act take precedence over these sales and delivery terms.

17. VENUE AND LAW

Any dispute arising out of the contract shall be settled before a Danish court. The venue is "SØ- og Handelsretten" in Copenhagen. However, the seller is entitled to demand arbitration according to the general rules of the Danish court. The Court of Arbitration is set up in Copenhagen. Settlement through arbitration does not exclude the possibility of an injunction or that other preliminary remedies can be carried through at the relevant revenue.