

**Terms of Sale and Delivery regarding delivery of products and/or repair work
to customers of SMEL INDUSTRY ApS**

1. Scope and conclusion of contract

- 1.1 These terms of sale and delivery (the "Terms of Sale and Delivery") apply to all product deliveries ("Products") from SMEL INDUSTRY ApS, Danish CVR No. 14692142 ("SMEL"), and/or SMEL's performance of repair work ("Repair Work"), to the customers of the company ("Customer"). The terms of sale and delivery apply in their entirety both in relation to SMEL's delivery of Products and/or performance of Repair Work, unless otherwise specifically stated in the terms.
- 1.2 The Terms of Sale and Delivery prevail over any other that may be stated in the Customer's terms of purchase, order, code of conduct, tender documents or other material. Deviations from the Terms of Sale and Delivery will thus not apply, unless SMEL has explicitly agreed otherwise.
- 1.3 All offers submitted by SMEL shall solely be considered as invitations to make offers. Thus, a final agreement is only deemed concluded upon the submission of an order confirmation from SMEL to the Customer.

2. Specifications, drawings, etc. for the Products

- 2.1 If the Customer has requirements for specifications for the Products, including requirements for the construction, materials and/or the design of the Products, such specifications, drawing material, etc. will only be binding on SMEL, if SMEL has explicitly accepted such.
- 2.2 Drawing materials and/or specifications, including requirements for the construction, materials and/or design of the Products, provided by SMEL, will be deemed approved by the Customer unless, within 3 days of receipt of the relevant material, the Customer declares explicitly in writing to SMEL that the Customer cannot accept the material.

3. Prices

- 3.1 All prices stated by SMEL are stated excluding VAT, shipping costs, surcharges, packaging fees, and other charges, etc. in force from time to time.
- 3.2 SMEL explicitly reserves the right to adjust the agreed price if, at the time of delivery, there have been general price changes due to fluctuations in the foreign exchange market, increases in charges, increased transport costs, increased duties and taxes, increases in the price of the raw materials used or general price changes at SMEL's suppliers.

4. Terms of payment

- 4.1 The purchase price is payable on the date stated in the invoice issued by SMEL. Unless otherwise stated in the invoice, the term of payment is 30 days from the date on the invoice issued by SMEL. If payment is not received by the due date, interest at 2% per current month will accrue to the amount due from time to time.
- 4.2 The Customer will not be entitled, without SMEL's explicit consent, to set off against any counterclaims that the Customer may have against SMEL. The Customer is also not entitled to withhold parts of the purchase price due to any counterclaims.
- 4.3 If the Customer breaches any payment obligations, SMEL is entitled to withhold further deliveries until payment has been made.
- 4.4 SMEL is entitled to terminate the agreement if SMEL has not received payment within 10 working days of SMEL's submission of a written demand for payment.
- 4.5 SMEL is also entitled to charge reminder fees and other compensation amounts in accordance with the general provisions of Danish law in this respect.

5. Retention of title to the Products

- 5.1 The ownership of the Products will only pass to the Customer when the Customer has paid the agreed price, including accrued interest, reminder fees and all other amounts owed, etc., cf. clause 4. SMEL's retention of title is, however, limited by the mandatory legal provisions in this regard applicable from time to time.
- 5.2 Until SMEL has received full payment for the delivery, the Customer may not resell the Products, dispose of the Products or otherwise dispose of the Products in a manner contrary to SMEL's retention of title. The Customer is also obliged to store the Products in such a way that the Products can be identified and so that they are not damaged, and the Customer must return the Products at the Customer's expense immediately upon SMEL's request.

6. Terms of delivery of the Products

- 6.1 Unless otherwise agreed, the time of delivery is stated in the order confirmation sent by SMEL. The time of delivery may be a specific date, or an indefinite date during a specific period of time. In the event the Customer provides information necessary for the execution of the order after the conclusion of the agreement, SMEL is entitled to postpone the delivery date. SMEL also explicitly makes reservations against any delays from SMEL's suppliers.
- 6.2 Delivery is made "Ex works", Sandagervej 18B, DK-5854 Gislev, Denmark, unless otherwise specifically agreed between SMEL and the Customer. From the time of delivery, the Customer bears the risk of the Products, and the Customer must pay all transport costs relating to the Products. If the Customer does not accept the Products at the time of delivery and thus breaches its obligation to collect the Products, SMEL is entitled to terminate the agreement, claim damages against the Customer and store the Products at the Customer's expense.
- 6.3 If SMEL chooses not to terminate the agreement, SMEL is entitled to claim compensation for reasonable costs incurred by SMEL as a result of the postponement of delivery which inter alia may include costs to labour, storage, etc.
- 6.4 In the event of a delay, SMEL must inform the Customer of such. The customer is only entitled to nullify/cancel the order in the event of material delay, which, however, can only be done on the basis of the conditions set forth under clause 6.5.
- 6.5 If the Customer intends to nullify/cancel the order as a result of SMEL's material delay, the Customer must – after the time when the delivery should have taken place – submit a written request to SMEL demanding delivery within 20 calendar days. If SMEL fails to deliver the Products within this deadline, the Customer may nullify/cancel the delayed part of the order. In addition, the Customer is entitled to claim from SMEL its direct and documented costs of purchasing the corresponding product from another supplier, which in no case may exceed 15% of the price of the delayed part of the delivery. The Customer is not entitled to any other compensation in connection with the cancellation of the order.

7. Non-conforming Products

- 7.1 The Customer is obliged immediately upon delivery of the Products to examine whether any of the Products are nonconforming. If the Customer finds or should have found any defects during the examination, the Customer must send a written complaint to SMEL within 7 working days (counted from the time of delivery); failing such, the Customer will lose its right to claim the defects.
- 7.2 If the defects only become apparent at a later date, and if the Customer ought not to have discovered the defects during the preliminary examination, the Customer must immediately notify SMEL in writing if the Customer intends to invoke the defects. If the Customer does not do so immediately, the Customer will lose its right to claim the defects.
- 7.3 The period for giving notice of defects will expire 12 months after the delivery of the Products, cf. clause 6.2. After this time, the Customer will not be entitled to give notice of defects.

- 7.4 In the event that the Customer claims defects requiring SMEL's examination that subsequently proves that no defects can be documented in the sold Product for which SMEL is liable, the Customer will be obliged to compensate SMEL's reasonable costs associated with such examination which inter alia may include costs to transportation, labour and laboratory tests, etc.
- 7.5 In the event that a Product, for which SMEL is liable, proves to be non-conforming, SMEL may at SMEL's sole discretion choose between rectifying the defect or making a replacement. If it is not possible to rectify the defect or make a replacement within a reasonable time having due regard to the non-conforming Product in question, the Customer is entitled to a proportionate reduction of up to a maximum of 15% of the purchase price of the non-conforming Product, alternatively request a third party to carry out the rectification, cf. clause 7.6. The Customer is not additionally entitled to any kind of compensation, indemnification for loss or to otherwise give notice of defects in connection with a non-conforming Product.
- 7.6 If replacement or rectification of the defects does not take place within a reasonable time having due regard to the non-conforming Product in question, the Customer is entitled - as an alternative to demanding a proportionate reduction - to have a third party carry out the rectification at SMEL's expense, provided that: (i) SMEL is informed in writing before the rectification is initiated, (ii) SMEL's costs in this connection are limited to the direct costs associated with the rectification, (iii) the rectification is carried out at a reasonable price, and (iv) the price of the rectification cannot in any case exceed 15% of the price of the non-conforming Product. The customer cannot both request a third party to carry out the rectification and obtain a proportionate reduction.
- 7.7 If the defect can be deemed material and SMEL is unable to rectify the defect within a reasonable time, cf. clause 7.5, the Customer is instead entitled to nullify/cancel the defective part of the order. In addition, the Customer is entitled to claim from SMEL its direct and documented costs of purchasing the corresponding product from another supplier, which in no case may exceed 15% of the price of the non-conforming Product. The Customer is not entitled to any other compensation in connection with the cancellation of the order.
- 7.8 If the Product is not used and stored properly as provided for or as otherwise stated by SMEL, the Customer will not be entitled to give notice of defects. The Customer is also not entitled to give notice of defects if the Customer has failed to carry out necessary maintenance, made changes/interventions in the Product, has carried out rectification, or if SMEL has manufactured the Product according to the Customer's instructions, drawings, design and/or specifications.

8. Product liability

- 8.1 SMEL is liable for damage caused by the Products to immovable property, movable property, or to equipment in which the Products are incorporated to the extent that such damage is covered by SMEL's industrial and product liability insurance in force from time to time, and then only at an amount corresponding to the amount that SMEL, subject to a final decision, will obtain for the damage in question from the insurance company.
- 8.2 The Customer is obliged to indemnify SMEL in the event that SMEL is held liable towards third parties for damage for which SMEL is not liable in accordance with the Terms of Sale and Delivery.
- 8.3 With regard to personal injury, SMEL will be liable only to the extent that it can be proved that any damage is attributable to SMEL's omission or negligence.
- 8.4 SMEL is under no circumstances liable for product liability if the damage is due to the Product not being used and/or stored properly as provided for or as otherwise stated by SMEL, unless otherwise set forth under clause 8.1.
- 8.5 SMEL is not liable for indirect losses, including operating losses, loss of time, loss of profit or liquidated damages.
- 8.6 The Customer is obliged to take out relevant product liability insurance, just as the Customer is obliged to become a defendant in any matter under the court of law/arbitration tribunal hearing a claim about SMEL's product liability, if any.

9. Special terms regarding Repair Work

- 9.1 If an agreement has been entered into for SMEL's performance of Repair Work to the Customer's material, spare parts, components and/or equipment (the "Equipment"), the provisions of this clause 9 shall apply to such work.
- 9.2 SMEL carries out the Repair Work at the address, Sandagervej 18B, DK-5854 Gislev, Denmark, unless otherwise specifically agreed with the Customer. The Customer must pay the costs of transporting the Equipment to SMEL's address.
- 9.3 SMEL must have access to the Equipment no later than at the agreed time of the Repair Work, and the Customer is obliged to notify SMEL immediately if the Customer is unable to grant SMEL access to the Equipment at the agreed time. If the Customer does not grant SMEL access to the Equipment at the agreed time, the delivery time will be postponed. Regardless of the reason, the Customer must compensate SMEL for any documented loss that SMEL may incur as a result of SMEL not having access to the Equipment at the agreed time.
- 9.4 If SMEL's performance of the Repair Work does not take place at the agreed time, the Customer must - after the time when delivery should have taken place - submit a written request to SMEL demanding that the Repair Work be carried out within 20 calendar days. If SMEL does not perform the Repair Work within this deadline, the Customer is entitled, upon written notice to SMEL, to either perform the Repair Work itself or have the work performed by a third party.
- 9.5 In the event that SMEL is responsible for the delay, cf. clause 9.4, SMEL must compensate the Customer for any additional costs that the Customer may incur by performing the Repair Work itself or having the Repair Work performed by a third party. However, SMEL is in no case obliged to compensate the Customer for additional costs exceeding more than 15% of the invoice price for the agreed Repair Work.
- 9.6 With the exception of the remedies referred to in clauses 9.4 and 9.5, the Customer cannot advance any claim against SMEL as a result of SMEL's delay, and the Customer cannot claim compensation.
- 9.7 In the event that the Repair Work carried out by SMEL (i) has not been performed in accordance with the Agreement, (ii) the work is non-conforming, or (iii) has not been performed in a professional manner, SMEL is entitled and obliged, upon written notice from the Customer, to rectify the non-conforming work at its own expense and within a reasonable time having due regard to the Repair Work in question.
- 9.8 Complaints about defects in the performed Repair Work must be received by SMEL no later than 7 working days after the defects have been or should have been discovered by the Customer, just as the complaint must clearly specify the defects and the consequences thereof for the Customer. If the Customer does not comply with these conditions, the right to claim defects will be forfeited.
- 9.9 The period for giving notice of defects will expire 12 months after the completion of the Repair Work. After this time, the Customer will not be entitled to give any kind of notice of defects, including to claim compensation.
- 9.10 In the event that the Customer claims defects requiring SMEL's examination that subsequently proves that no defects can be documented in the Repair Work for which SMEL is liable, the Customer will be obliged to compensate SMEL's reasonable costs associated with such examination which inter alia may include costs to labour, storage, etc.
- 9.11 SMEL's liability does not include the consequences of normal wear and tear, overload, use of unsuitable lubricants, the Customer's failure to comply with any service regulations, inadequate maintenance, inappropriate operation or accidental damage and other circumstances for which the Customer bears the risk.
- 9.12 In the event that SMEL is not able to rectify the defects, SMEL will become obliged to compensate the Customer for any additional costs that the Customer may incur by performing the Repair Work itself or having the Repair Work performed by a third party. However, this is conditional on (i) SMEL being informed in writing prior to the rectification being initiated, and (ii) the rectification being performed at a reasonable cost. However, SMEL is in no case obliged to compensate for additional costs exceeding more than 15% of the invoice price for the agreed Repair Work.
- 9.13 In consequence of defects, the Customer cannot advance any other claim than those set out in clauses 9.7-9.12, and the Customer cannot claim compensation.

10. General limitation of liability

10.1 In no event will SMEL be liable for financial loss, consequential loss, loss of time, lost earnings, consequential damage or indirect loss. SMEL's liability is limited in all respects to the invoice price of the purchased Product in case of purchasing of Products, and to the invoice price of the agreed Repair Work in case of performing Repair Work. However, in the event of SMEL's gross negligence, the limitations under clause 9 shall not apply.

11. Other terms

11.1 SMEL may change the Terms of Sale and Delivery at any time. The Terms of Sale and Delivery in force at any time can be found on SMEL's website in an updated version.

11.2 The Customer obtains no right to SMEL's industrial or intellectual property rights when purchasing SMEL's Products and/or the performance of Repair Work.

11.3 SMEL is entitled to assign rights and obligations with regard to the fulfilment of orders to third parties without such requiring the Customer's consent.

11.4 Information mentioned in SMEL's material of any kind, including on the website, published price lists or catalogue material is of an indicative nature. The information is only binding if explicitly agreed between the Customer and SMEL.

11.5 No regulatory approval of any kind is included in the delivery of the Products, and it is for the Customer to investigate if the purchased Product may be used for the intended purpose.

12. Force majeure and hardship

12.1 It is a case of force majeure when SMEL or SMEL's sub-supplier is prevented in whole or in part from fulfilling any contractual obligations assumed because of war, mobilisation, civil riots, natural disasters, strikes or lock-outs, epidemics, pandemics, failing supplies of raw materials, fires or other destruction to SMEL's production plant or any other extraordinary event preventing or limiting SMEL's normal manufacturing process, and that SMEL neither could have or ought to have foreseen when concluding the contract.

12.2 In the event of force majeure and/or hardship, SMEL may choose to revoke the concluded contract or parts thereof or to perform delivery as soon as possible after the hindrance has ceased.

12.3 In case of force majeure and/or hardship, SMEL is not liable for the Customer's loss, if any, as a result of missing or delayed delivery.

13. Governing law and venue

13.1 The Terms of Sale and Delivery are subject to the general rules of Danish law, which also apply to all offers, order confirmations, invoices and other issues pertaining to business matters connected with the Products. The Terms of Sale and Delivery shall be interpreted in accordance with Danish law, except provisions on governing law and the international sale of goods act (CISG).

13.2 The parties shall seek to settle any dispute that may arise between them in relation to the Terms of Sale and Delivery by direct negotiation between the parties.

13.3 If the parties cannot settle the dispute by direct negotiation, the dispute must be resolved through mediation. The mediator shall be appointed by the parties in consensus. If the parties cannot agree on the appointment of a mediator, the mediator must be appointed by the chairman of Danske Mediatoradvokater.

13.4 All discussions prior to and in connection with mediation shall be confidential to all participants. If no other agreement is concluded in the context of mediation, the costs of the mediator shall be shared equally between the parties. Each party shall bear the costs of its own advisers in connection with the mediation.

13.5 If the dispute is not resolved by mediation within 8 weeks after the mediation has commenced from the first mediation meeting, the dispute shall be settled by the District Court in Svendborg as exclusive jurisdiction.