



## Terms of Sale and Delivery of Brødrene Dahl

### 1. Applicability

- 1.1. Unless otherwise agreed in writing, these Terms of Sale and Delivery shall apply between Brødrene Dahl (Seller) and any given buyer (Buyer) in relation to all offers, orders and deliveries.
- 1.2. Any exceptions from these provisions, including in the form of Buyer's conditions of purchase, shall require Seller's accept in writing.
- 1.3. Seller is entitled to amend these Terms of Sale and Delivery from time to time.
- 1.4. In addition to these Terms of Sale and Delivery, Seller's code of conduct provisions shall apply in relation to deliveries from Seller. Seller's code of conduct provisions are available at [www.bd.dk](http://www.bd.dk) or may be obtained from Seller. Seller's code of conduct provisions shall always supersede Buyer's code of conduct provisions.

### 2. Formation of Contract

- 2.1 An offer shall apply for 30 days from the date of making it.
- 2.2 However, prior to Buyer's acceptance of it, an offer may be changed or withdrawn if Seller's assumptions change significantly.

### 3. Goods, Packaging and Product Information

- 3.1 The goods shall be described in more detail in Seller's offer or order confirmation.
- 3.2 Seller shall deliver the goods in adequate packaging, if packaging is required.
- 3.3 Information included in the product information and price lists shall be binding, provided that the order confirmation expressly refers to said information and price lists, but see Section 4.1.
- 3.4 However, to the best of his abilities, Seller will advise Buyer as regards Buyer's choice of products and their functions. However, the parties shall expressly agree to provide such technical advice and assistance free of charge, and Seller shall assume no obligation or liability for such advice and assistance, or for results achieved, unless the parties have entered into a specific separate agreement to this effect.

### 4. Prices and Delivery

- 4.1 Unless otherwise stated, all prices shall be exclusive of VAT. When selling from stock, the prices listed in Seller's price lists, exclusive of VAT, in force from time to time, shall apply.
- 4.2 Seller shall reserve the right to change the price, if, prior to delivery, new or increased costs, for example as a result of changed tariff rates, taxes, duties, currency rates, raw material prices, or as a result of the supplier's documented price increases, are imposed upon Seller.
- 4.3 The delivery shall take place at Buyer's address, unless otherwise stated in the order confirmation. The delivered goods shall be specified in an accompanying delivery note.
- 4.4 At the time of delivery, Seller will impose an environmental charge according to the delivery method chosen. The environmental charge is invoiced separately to the buyer and cannot be paid in cash at the time of receipt
- 4.5 In connection with transportation of dangerous goods, including among others gases, Seller also preserves the right to impose a delivery charge. The delivery charge for dangerous goods at present amounts to DKK 454 per delivery plus DKK 11 per bottle. The price will be adjusted in relation to the market price.
- 4.6 Seller shall levy a billing fee per invoice issued. Invoices via EDI, [bd.dk](http://bd.dk), and e-mail shall be free of charge.
- 4.7 Seller shall have the option to carry out part deliveries and partial invoicing.

### 5. Delayed Delivery

- 5.1. If the agreed time of delivery is delayed for up to three days, the delivery shall be considered punctual, and shall not entitle Buyer to exercise remedies for breach of contract.



- 5.2. If delivery has not taken place more than three days after the agreed time of delivery, Buyer shall have the option to request delivery of the purchased goods or to cancel the purchase, as such delay shall be considered material.
- 5.3. In case of OEM deliveries from plants and specially procured OEM goods, the time of delivery shall be fixed based on Seller's and Seller's supplier's best estimate. Such time of delivery shall be without obligation and any delay shall not entitle Buyer to cancel the purchase under Section 5.2 above or demand a replacement delivery. Any delay of the time of delivery fixed shall be notified to Buyer as soon as possible after Seller obtained knowledge thereof.
- 5.4. If a delay in delivery is caused by circumstances that constitute a ground for exemption from liability under Section 10.1 herein or is due to Buyer's act or omission, the time of delivery shall be extended to a point of time which shall be deemed reasonable in the circumstances. The time of delivery shall be extended even if the reason for the delay occurs after the expiry of the date of delivery originally agreed by the parties.
- 5.5. If a purchase is cancelled in accordance with Section 5.2, Buyer shall have the right to request repayment from Seller of the purchase price, if this has already been paid, and damages for any direct documented loss arising from the delay, up to but not exceeding the invoiced value of the part of the delivery that was delayed.
- 5.6. If Buyer does not cancel the purchase, Buyer shall not be entitled to damages for the delayed delivery.
- 5.7. Buyer cannot exercise any other remedies against Seller because of a delay than those listed here above.

## **6. Terms of Payment**

- 6.1 A payment shall be received by Seller on the due date stated in the invoice at the latest.
- 6.2 If payment is received after the due date, Seller shall charge interest on the amount due of 2.25% per commenced month. Interest shall be charged to Buyer's account and shall be paid before any other debt.
- 6.3 Buyer shall not be entitled to terminate Seller's claim for payment of the purchase sum by setting it off against other payments or by exercising a lien, irrespective of whether Buyer's claim arises from the present issue or from other issues between the parties.
- 6.4 In the event of late payment, Seller shall have the right to suspend the fulfilment of Seller's obligations to Buyer regarding the delivery in question and any other issues between the parties.
- 6.5 In the event of late payment, Seller shall also have the right to set off the late payment against any customer bonus due to Buyer.
- 6.6 Moreover, Seller shall have the right to terminate the agreement as regards the delivery in question and claim damages for any loss incurred by Seller, if payment of amounts due has not been settled 30 days from the due date.

## **7. Ownership and Reservation of Ownership**

- 7.1 Seller shall reserve ownership of the goods sold until Buyer has paid the entire purchase sum and any additional expenses and interest, or until adequate security has been provided.
- 7.2 The risk of accidental destruction or damage of the goods, passes on to Buyer upon delivery.
- 7.3 Drawings, specifications, descriptions, etc. for use in the production of deliveries or parts thereof, which are handed over to Buyer before or after the conclusion of the agreement, shall remain Seller's property. The use of drawings, etc. for other purposes than the utilization and maintenance of the delivered goods requires Seller's permission, and said drawings, etc. may not be copied, reproduced, handed over or in any other way be communicated to a third party by Buyer. Upon the request of Buyer, Seller shall provide Buyer with a copy of the existing instructions free of charge.

## **8. Defects and Notices of Lack of Conformity**

- 8.1 Immediately upon delivery, Buyer shall check the delivery for the purpose of ascertaining a shortage or other visible defects. Any notice of lack of conformity arising hereof shall be presented within eight days of delivery. If Buyer fails to present said notice within the stated period, Buyer shall be precluded from claiming such defects at a later time.



- 8.2 Within a period of 24 months from the date of delivery, Seller shall remedy any goods which are defective because of design, material or production flaws. At Seller's option, said remedy shall be in the form of repair or replacement delivery. Seller shall also have the right to issue a credit note to Buyer amounting to the original purchase price for the delivered goods in fulfilment of Seller's obligation to remedy defects, instead of carrying out repair or making a replacement delivery.
- 8.3 Notices of lack of conformity regarding defective goods shall be made in writing and without undue delay after the defect has been or should have been detected. If Buyer fails to do so, Buyer shall lose the right to remedy according to Section 8.2.
- 8.4 Seller shall decide, if the defective product shall be remedied at the place where it has been installed or at Seller's premises. If the remedy requires that the product be returned to Seller, defective parts shall be sent to Seller upon request and free of charge. In such case, the returning of the product following the remedy shall then occur at Seller's expense and risk.
- 8.5 If Seller fails to carry out the remedy within a reasonable period of time following Buyer's notice of lack of conformity in accordance with Section 8.4, Buyer shall have the right to terminate the agreement as regards the defective part of the delivery by giving notice thereof to Seller in writing.
- 8.6 In the event of termination under Section 8.5., Buyer shall be entitled to claim repayment from Seller of any purchase price, if this has already been paid, and to claim damages for direct documented loss arising from the defect, up to but not exceeding the invoiced value of the defective part of the delivery. If Buyer does not terminate the agreement, Buyer shall not be entitled to damages for the defective delivery.
- 8.7 Buyer cannot exercise any other remedies against Seller because of defects than those listed here above.

## 9. Product Liability

- 9.1 Seller shall only be liable for personal injury if it is possible to prove that the injury is due to errors or neglects committed by Seller or other persons for whose actions Seller is liable.
- 9.2 Seller shall not be liable for damages to real property or chattels which occur while the goods are in the possession of Buyer. Seller shall also not be liable for damage to products produced by Buyer or for damage to products of which the aforementioned products form part. Incidentally, Seller shall be liable for damage to real property and chattels on the terms and conditions that apply to personal injuries.
- 9.3 In the event that product liability to a third party shall be imposed upon Seller, Buyer shall indemnify Seller to the same extent to which Seller's liability shall be limited under these Terms of Sale and Delivery.

## 10. Force Majeure

- 10.1 The following circumstances shall result in exemption from liability, if they prevent performance of the agreement or make performance unreasonably burdensome: labour disputes and any other circumstance over which the parties have no control, such as hacking attacks, virus attacks, health crisis, epidemics, fire, war, mobilization, or military call-up of a corresponding extent, requisition, seizure, currency controls, riots and civil commotion, lack of means of transportation, general shortage of goods, motive power restrictions, and defective or delayed deliveries from sub-suppliers arising from any of the circumstances listed in this Section.

## 11. Building Supply Clause

- 11.1 If a delivery is used as per the rules and regulations for building projects in Denmark where AB92/ABT 93 or AB 18 is applicable, this Building Supply Clause shall apply:  
Seller's liability for defective deliveries shall expire five years after the handing-over of the building project of which the delivery forms part. However, if delivering to storage or resale, Seller's liability shall expire six years after the delivery was made to Buyer.

If satisfied that a claim regarding defective delivery cannot or can only with difficulty be processed against Seller's buyer, or against subsequent buyers, the parties shall accept that the claim may also be raised directly against Seller. Also, in such circumstances Seller may only be held liable for defects to the extent that Seller's own delivery is defective, and moreover only if it arises out of Seller's own contractual relationship with Seller's Buyer; the period of liability for defects, cf. above, cannot be disregarded though.

However, Seller shall always accept that legal action may be brought against Seller along with Buyer or subsequent buyers in connection with the parties' mutual relationship. The ensuing case shall be heard by the Danish Arbitration Tribunal for Building and Engineering. Please see AB 92/ABT 93, Section 10(4), cf. Section 5(5) resp. AB 18, Section 12 (5), cf. Section 8 (4 and 5).

The above do not apply outside Denmark, unless otherwise agreed in writing.

## 12. Return of Deliveries

12.1 If Buyer regrets his purchase from Seller, Seller shall accept the delivery for return subject to the following conditions:

- The product shall be in complete, clean and marketable condition
- The product shall be undamaged and in unbroken original packaging
- The return delivery shall be specified and sorted
- The item was purchased from Seller (to be documented by means of delivery note, invoice, package label or return note from bd.dk)

Specially procured goods (hereafter referred to as "procured goods") can only be returned if Seller's supplier accepts them for return.

Furthermore, the following is applicable for the return delivery:

12.1.1 If the product doesn't fulfill the conditions for return cf. 12.1, the product will be returned to Buyer at Buyer's expense. Products that when returned, represents a value under 250 DKK will be discarded.

12.1.2 If Seller accepts the return of products that are not specified and sorted or in complete and marketable condition, Buyer will receive a service fee of 275 DKK per each initiated half work hour that Seller uses to recondition the products to a marketable condition.

12.1.3 If Seller accepts the return of products that lack documentation for purchase, the product will be credited to the lowest price that Buyer has purchased for the product within the last 90 workdays. Buyer receives a service fee of 275 DKK per initiated half work hour that Seller uses to procure documentation for the purchase. If purchases within 90 workdays cannot be identified, the product is rejected.

12.1.4 If the product has been purchased more than 90 workdays ago, Seller can in some instances accept to receive the product if this can be sold again. Products containing a warranty period cannot be returned after 90 workdays. Buyer is deducted 30% in return delivery payment.

12.1.5 Stainless steel products excl. press-products, may be returned for up to four weeks from the date of delivery by paying a return fee of 20% of the invoiced price, although no less than 250 DKK per returned delivery.

The following deliveries cannot be returned:

- Pipes, cables, gutters or other products in measured lengths or in special measurements
- Fragile pipes such as ventilation pipes ect.
- Slates and metal plates
- Dated products and dangerous products (products included in the ADR legislation)

- Non-returnable packaging

<b>0 – 8 workdays</b>	No return fee, but a service fee if applicable
<b>9 - 90 workdays</b>	20 % of the invoiced price is deducted, at a minimum of 100 DKK per return delivery, as well as a service fee if applicable
<b>&gt; 90 workdays</b>	The product can initially not be returned. If Seller accepts the return delivery cf. 12.1.4, 30% of the invoiced price is deducted, at a minimum of 100 DKK per return delivery as well as a service fee if applicable

- 12.2. Return deliveries can be returned in all Seller's shops. If return deliveries or returned packaging wishes to be retrieved on an address supplied by the Buyer, a transport fee of 199 DKK is added. Transport fees are also collected at the return of rejected products that are sent back to Buyer.
- 12.3. When returning procured goods, Buyer is debited a freight fee charged by Seller's supplier, as well as any return and/or handling fees charged by the Supplier.
- 12.4. Standard packaging such as europallets, sides, frames and wooden boxes with the BD logo imprinted, shall be credited to Buyer upon return, provided that said packaging has not been damaged. Crediting shall be deducted a 20% wear and tear surcharge.

### 13. Return boxes

- 13.1 If the Buyer is included in the Seller's return box scheme, a deposit will be charged for return boxes upon delivery, which will be refunded upon proper return.
- 13.2 The Buyer must store the return boxes in a dry and clean environment, protected from wind and weather. The return boxes must be returned empty and free of debris. If these requirements are not met, the deposit will not be refunded.
- 13.3 For the sake of safety and the protection of the Buyer's data, all labels must be removed by the Buyer before returning the boxes.
- 13.4 Upon the delivery of new orders, the same number of return boxes can be taken back, provided they are easily accessible. If the Buyer wishes to return all the return boxes, a return case must be created with the Seller.
- 13.5 Return boxes must not be used for returned goods.

### 14. General Limitation of Liability

- 14.1 Under no circumstances shall Seller be liable, neither in connection with delays, defects, product liability nor in any other way, for any indirect loss and any other financial consequential loss, including operating loss, time loss, loss of profits or daily penalties.

### 15. Governing Law and Venue

- 15.1 Any disagreement about matters covered by these Terms of Sale and Delivery shall be dealt with in accordance with the general rules of Danish law, the Convention on Contracts for the International Sale of Goods (CISG) excepted.
- 15.2 All disputes on which the parties fail to agree shall be settled by a Danish court of law at Seller's venue, except for the circumstances stated in AB 92/ABT 93, Section 10(4), cf. Section 5(5), resp. AB 18, Section 12 (5), cf. Section 8 (4 and 5) cf. Section 11 here above.