

Adnox A/S
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GENERAL TERMS OF SALE AND DELIVERY

- 1.0 No order placed with Vendor shall be binding unless accepted in writing.
- 2.0 Agreed delivery clauses shall be interpreted according to the Incoterms which are in force at the time when the agreement is made. If no special agreement of delivery clause has been made, delivery shall be considered: "Ex works".
- 2.1 Unless otherwise stated, the prices mentioned are exclusive of packing and value added tax.
- 2.2 Prices are strictly confidential and may not under any circumstances be distributed to any 3rd party.
- 3.0 If the delivery time accepted in the contract is only stated as an approximate one, each of the parties is entitled, after a period of time amounting to two thirds of this time, to claim a written agreement on a fixed delivery date. If the contract does not include any determined delivery time each of the parties is entitled, after a period of time of 6 months as from the signing of the contract, to claim a written agreement on a fixed delivery date.
- 4.0 If delay in delivery is due to force majeure, other cases of relief or Buyer's action or omission, the delivery time is prolonged to the extent which is found reasonable according to the circumstances. The following shall be considered as cases of relief if they intervene after the formation of the Contract and impede or delay its performance: industrial disputes and any other circumstances (e.g. fire, mobilization, requisition, embargo, currency restrictions, insurrection, shortage of transport, general shortage of material and restriction in the use of power) when such other circumstances are beyond the control of the parties (force majeure).
- 4.1 Machine breakdowns and defects, delays of deliveries or defective deliveries from sub-contractors shall also be considered cases of relief when such circumstances are beyond the control of Vendor.
- 4.2 Vendor wishing to claim relief by reason of any of the aforesaid circumstances (4.0 & 4.1) shall notify the other party in writing without delay of the intervention and of the cessation thereof.
- 5.0 If Buyer reaches the conclusion that he will not be able to receive the supply on the date agreed, or if a delay must be considered probable from his part, he must incessantly, in writing, inform Vendor about this fact, stating the reason for the delay and, wherever possible, the time when he expects to be able to receive the supply. If Buyer does not receive supply ready for dispatch on due date, he shall nevertheless make any payment conditional on delivery as if the supply had been delivered. Vendor shall arrange for the storage of the goods at the risk and cost of Buyer. If required by Buyer, Vendor shall insure the supply at the cost of Buyer. Unless the failure of Buyer is due to force majeure, Vendor may require Buyer, by notice in writing, to accept delivery within a reasonable time – with a two weeks' notice. If Buyer fails for any reason whatsoever to do so within such time Vendor shall be entitled, by notice in writing to Buyer, and without requiring the consent of any Court, to terminate the contract in respect of such portion of the supply as is by reason of the failure of Buyer aforesaid not delivered and thereupon to recover from Buyer any loss suffered by reason of such failure. Indemnities cannot exceed the part of the purchase price which covers the parts of the consignment not received.
- 6.0 If delivery has been made before payment of the whole sum payable under the contract has been effected, goods delivered shall in full remain the property of Vendor until such full payment has been effected.
- 6.1 Drafts or instruments of debts are not to be considered as full payment until full and final settlement has been effected. In the meantime, goods delivered shall remain the property of Vendor.
- 6.2 If Buyer does not affect payment in due time - as per terms of payment overleaf - Vendor is entitled to charge interest amounts, at present 1,5% per started month after due date. If Buyer fails to effect payment in due time, Vendor is at its own discretion entitled to cancel the agreement in writing, and from Buyer to claim indemnity for the loss Vendor has suffered. Indemnities cannot exceed the value of the part of the supply not yet paid for plus interest for the period of delayed payment.
- 6.3 Unless otherwise specifically agreed upon and approved in writing by Vendor, the payment terms are: 30 days net as from date of Vendor's invoice.
- 6.4 Invoices will only be sent by email. In case of Buyer wanting to receive hard copy of invoice, this can be arranged upon enquiry against a fee of 25 EUR per invoice.
- 6.5. If Buyer cannot take parts after notice of readiness from Vendor, due to not having prepaid, informed delivery address etc., it is possible for Buyer to have goods stored at Vendor's place of business. In case of storage at Vendor's place of business for longer than 14 days, Vendor is entitled to charge warehouse rent at current rates. Rates can be informed upon enquiry to Vendor.
- 7.0 The weights, dimensions, capacities and other data included in catalogues, prospectuses, circulars, advertisements, illustrated matter and price lists constitute an approximate guide. These data shall not be binding save to the extent that they are by reference expressly included in the contract.
- 8.0 If Vendor does not observe the agreed delivery time, Buyer is only entitled to penalty covering direct and indirect loss (e.g. consequential damage, loss on operation, loss of time, loss of profit) if this has been explicitly agreed and confirmed by Vendor in his acknowledgement of order. Buyer loses his right to penalty if the claim has not been made within 6 months after delivery should have taken place
- 9 Liability of defect
- 9.0 A possible defect due to defective material and/or faulty workmanship must immediately be advised Vendor by Buyer. Remedy of the defect must be effected at Vendor's place of business in Denmark. A repair made out through Buyer without Vendor's prior written consent does not entitle Buyer to any debiting of the costs in this connection.
- 9.1 If Buyer wants Vendor to check the condition of the delivered parts and a claim is accepted or provided Vendor's prior acceptance of a claim the returning of goods is for Buyer's risk and account, but reforwarding from Vendor to Buyer is for Vendor's risk and account – by cheapest transportation means possible.
- 9.2 If Vendor cannot accept the claim after having seen the part, the re-forwarding to Buyer will take place for Buyer's risk and account, and the costs in connection with a remedy will be debited Buyer.
- 9.3 Vendor's liability shall apply only to defects that appear under the conditions of operation provided for by the contract and under proper use. It does not comprise any defects due to causes arising after the risk of the supply has passed according to the agreed delivery terms. In particular it does not cover defects arising from Buyer's negligent handling, incorrect mounting, faulty maintenance or erections, or from alterations carried out without Vendor's written consent, or from repairs carried out improperly by Buyer, nor caused by normal deterioration. Cf. 9.10.
- 9.4 Likewise, Vendor's liability does not apply to defects arising out of material provided, or out of a design/construction stipulated by Buyer (directly or indirectly).
- 9.5 Adnox A/S products: Vendor's responsibility for defective material and/or faulty workmanship will be valid for a period of maximum 12 (twelve) months as from date of mounting of the part in question in the vessel concerned, but in no case more than maximum 18 (eighteen) months as from date of dispatch from Vendor or subcontractor's factory. This only provided that the parts in question are stored carefully so that neither humidity, temperature fluctuations nor other physical effects will supersede the normal operational conditions in the engine room of a ship. Vendor's responsibility is only valid, provided that service overhauls of the parts in question are maintained according to Adnox A/S's overhaul instructions and genuine spare parts are used.
- 9.6 The warranty is granted in favor of original Buyer and cannot be transferred to other Buyers in case vessel is sold.
- 9.7 The Buyer loses the right to rely on any defects (lack of conformity of the goods) if he does not give Vendor notice thereof immediately after discovery of the defects and at the latest within the period of 12 and 18 months respectively cf.
- 9.8 Sub-contract work: Vendor's responsibility only comprises defects which turn up before one year as from the date of dispatch from Vendor's factory. If the parts supplied by Vendor are applied more intensively than agreed upon or more than provided when the contract was made, this period is reduced correspondingly.
- 9.9 After the risk in the goods has passed to Buyer, Vendor has no responsibility for defects in addition to what is stated above even if such are due to causes existing before the risk so passed. It is expressly agreed that Buyer shall have no claim in respect of personal injury or of damage to property not the subject matter of the Contract or of loss of profit (directly or indirectly) unless it is shown from the circumstances of the case that Vendor has been guilty of gross negligence.
- 9.10 Repairs carried out under warranty conditions, will be undertaken pro rata. Costs for these warranty repairs is split between Buyer and Vendor and determined on a case by case basis depending on age of the system, time of failure, and maintenance condition.
- 10 Product liability
- 10.0 Vendor incur product liability if it can be proved that the injury is due to faults or omissions made by Vendor or other for which he is responsible. Buyer shall have the burden of proof for Vendor's product liability. Vendor is not responsible for damages to real estate or movable which occur while the goods are in Buyer's possession. Neither is Vendor responsible for damages to products produced by Buyer or to products of which these parts form part. Vendor is not responsible for losses of profit, lost earning or other indirect losses. To the degree where product liability might be claimed for Vendor from a third party, Buyer is committed to indemnify Vendor to the same degree as the limitation of Vendor's responsibility as per the above. If a third party puts forward a claim against one of the parties as per this point, the party concerned must immediately inform the other party hereof. These restrictions in Vendor's responsibility do not apply if he has shown gross negligence.
- 11 Gross negligence does not comprise any and every lack of proper care or skill but means an act or omission on the part of Vendor implying either a failure to pay due regard to serious consequences which a conscientious Vendor would normally foresee as likely to ensue, or a deliberate disregard of any consequences of such act or omission.
- 11.1 Vendor and Buyer are mutually committed to be sued at the court dealing with indemnity claims from third parties put forward against one of them because of a damage which is claimed to be caused by the supply. The mutual relationship between Buyer and Vendor will always be decided by arbitration (12.1).
- 12 Jurisdiction
- 12.0 The contract shall be governed by the law of Vendor's country - Denmark.
- 12.1 Disputes arising from the contract and provisions included herein and disputes on legal conditions cannot be solved at courts. Therefore, any dispute arising out of or in connection with this contract, including any disputes regarding the existence, validity or termination thereof, shall be settled by arbitration administered by The Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by The Danish Institute of Arbitration and in force at the time when such proceedings are commenced. Each Party shall appoint its own arbitrator and the chairman or the arbitral tribunal shall be appointed by the Chairman's Committee of the Danish Institute of Arbitration. The number of arbitrators shall be three (3), the place of arbitration shall be Copenhagen and the language of the arbitration shall be Danish.

11.09.18