



## TERMS OF SALE AND DELIVERY of products supplied by tt coil as

### APPLICATION

1. The below terms of sale and delivery shall apply unless otherwise agreed upon by the parties in writing.

### PRODUCT INFORMATION.

2. All information and data given in the parties' product information material and price lists shall be binding only if expressly referred to in the agreement.

### DRAWINGS AND SPECIFICATIONS

3. All drawings and technical documents relating to the product or to manufacture of the product, handed over from one party to the other before or after execution of the agreement, shall remain the property of the party supplying the material. Drawings, technical documents or other technical information received shall not, without the other party's consent, be used for other purposes than installation, starting-up, operation and maintenance of the product. Further, such material shall not, without the other party's consent, be used, copied, reproduced, handed over or in any other way brought to a third party's knowledge.
4. At the buyer's request, the seller shall, at the beginning of the period mentioned in clause 17 below and free of charge, supply him with the agreed number of copies – and at least one copy of specifications and drawings – sufficiently detailed to enable the buyer to install, start up, operate and maintain (and currently repair) all parts of the product. However, the supplier shall not be bound to supply basic materials for production of the product or spare parts.

### DELIVERY

5. Delivery clauses agreed upon shall be interpreted in compliance with the Incoterms in force at the time of execution of the agreement. If no special delivery clause has been agreed upon, delivery shall be regarded as having been made "Ex Works".

### TIME OF DELIVERY - DELAY

6. If, instead of defining a date of delivery, the parties have defined a period within which delivery is to be made, such period shall begin as from the date of execution of the agreement.
7. If the seller finds that he cannot deliver on time or that delivery will probably be late, he shall without undue delay inform the buyer in writing and, at the same time, state the cause of the delay and as far as possible the time when he expects to be able to deliver.
8. If the delay is ascribable to any of the circumstances mentioned in clause 31 below or to the buyer's action or non-action, the time of delivery shall be reasonable extended. This provision shall apply irrespective of the time of occurrence of the cause of the delay, whether it is before or after expiry of the time of delivery agreed upon.
9. If the seller cannot deliver on time, the buyer may – in writing – demand delivery within a reasonable time, which shall not be less than 14 days.  
If the seller does not deliver within the said time, the buyer may – in writing – terminate the agreement for the part of the product for which the agreement is terminated.
10. If the buyer terminates the agreement under the above, he may claim damages for the loss suffered in consequence of the supplier's delay. The damages cannot exceed 7.5 per cent of the agreed purchase sum for the part of the product for which the agreement is terminated.
11. Apart from the damages provided in clause 10 above, the buyer cannot raise any claim for damages for the seller's delay.
12. If the buyer finds that he cannot take delivery of the product on the date agreed upon or that he will probably have to postpone the date of delivery, he shall without undue delay inform the seller in writing and, at the same time, state the cause of the delay and as far as possible the time when he expects to be able to take delivery.  
If the buyer fails to take delivery on the date agreed upon, he shall – nevertheless – pay any amount stipulated for delivery as if the product in question had been delivered. The seller shall have the product in question stored for the buyer's account and risk. At the buyer's request, the seller shall insure the product in question at the buyer's expense.
13. If the buyer's failure to take delivery as mentioned in clause 12 above does not fall under clause 31 below, the seller may – in writing – demand that the buyer shall take delivery of the product in question within a reasonable time.  
If the buyer fails to do so within the said time – and the seller cannot be held responsible for the failure, the seller may inform the buyer in writing that he terminates the agreement for the part of the product, which is ready for delivery and of which the buyer has failed to take delivery. In such case, the seller may claim damages for the loss suffered in consequence of the buyer's failure to take delivery. The damages cannot exceed the purchase sum for the part of the product of which the purchaser has failed to take delivery.

### PAYMENT

14. If the buyer does not pay in time, the seller may charge interest on arrears as from the due date at the official bank rate (in Finland: The basic rate of the Bank of Finland) in the seller's country plus 9 percentage points.  
If the buyer has not paid the amount due within 3 months, the seller may – in writing – terminate the agreement and may claim damages for the loss suffered by him. The damages cannot exceed the purchase sum agreed upon.

### OWNERSHIP RESERVATION

15. The seller shall retain ownership of the product delivered until all the purchase sum has been paid, subject to validity of such ownership reservation under applicable law.

### LIABILITY FOR REMEDY OF DEFECTS

16. The seller shall be liable for remedy of any defect of construction, material or manufacture, by repair or replacement of the product as provided in clauses 17-25 below.
17. The seller shall only be liable for remedy of defects proved within one year after the date of delivery to the buyer.  
If the product is used more intensively than agreed upon or more than rightly deemed presupposed when the agreement was executed, the said period shall be reduced proportionally.
18. For parts, which are replaced or repaired under clause 16 above, the seller shall be liable – in the same way as he is liable for the original product – for one year. This provision shall not apply to other parts of the product for which the period mentioned in clause 17 above can only be extended by the time when the product could not be put to use because of the defects mentioned in clause 16 above..
19. The buyer shall – in writing and without undue delay – inform the seller of defects proved, in no case later than two weeks after expiration of the period mentioned in clause 17 above. The information shall indicate the nature of the defect.  
If there is reason to believe that the defect may cause damage, the complaint shall be made forthwith.  
If the buyer does not inform the seller of a defect within the times provided in this clause, the buyer cannot raise any claim because of the defect.

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If the buyer complains of a defect for which the seller is not liable, the seller shall be compensated for the work and the costs incurred by the complaint.

20. After having received the written information provided in clause 19 above, the seller shall remedy the defect without undue delay. The seller shall pay all costs in such respect.  
Repair shall be made at the buyer's place unless the seller finds it appropriate to have the defective part of the product or all the product returned and repaired or replaced in his own workshop.  
If removal and reinstallation of the part in question can only be done by a specialist, the seller shall remove and reinstall such part. If a specialist is not required for such work, the seller shall be freed from his obligations in respect of the defective part when having delivered to the buyer a properly repaired or new part.
21. If such removal and reinstallation affect other installations, the seller shall not be liable for the consequential work and costs.
22. Unless otherwise agreed, all forwarding in connection with repair or replacement shall be for the seller's account and risk. The buyer shall follow the seller's forwarding instructions.
23. Unless otherwise agreed, the buyer shall pay all the seller's incremental costs of repair, removal reinstallation and forwarding incurred because the product is not at the place stipulated in the agreement or – if no such place has been stipulated – at the place of delivery.
24. Defective parts replaced under clause 16 above shall be placed at the disposal of the seller and shall remain the seller's property.
25. If the seller cannot – within a reasonable time – fulfil his obligations under clause 20 above, the buyer may, in writing, fix a final date of fulfilment. If the seller has not fulfilled his obligations within the time given, the buyer may at his own option:
  - a: In a reasonable and proper way and for the seller's account and risk have the required repairs and/or replacement parts made;
  - or
  - b: Demand a proportional price reduction of not more than 15 per cent of the purchase price agreed upon. If a material defect is proved, the buyer may terminate the agreement by written notice to the seller. In such case, the buyer may claim damages, which shall not exceed 15 per cent of the agreed purchase sum.
26. The seller shall not be liable for defects of materials produced by the buyer or of constructions prescribed or specified by the buyer.
27. The seller shall only be liable for defects proved during the presupposed term of the agreement and if the product has been correctly used.  
The seller shall not be liable for defects proved after the risk has been passed to the buyer. The seller shall not be liable for defects caused by faulty maintenance, wrong installation made by the buyer, alterations made without the seller's written consent, or faulty repairs made by the buyer. The seller shall not be liable for normal wear and tear.
28. Irrespective of the above provisions, the seller shall not be liable for defects of any part of the product for more than two years from the beginning of the period mentioned in clause 17 above.
29. The seller shall only be liable for defects as described above. This limitation shall also apply to any loss caused by the defect, including consequential loss, loss of profit and other indirect loss. This limitation of the seller's liability shall not apply in case of gross negligence on the seller's part.

#### **LIABILITY FOR DAMAGE CAUSED BY THE PRODUCT (PRODUCT LIABILITY)**

30. **In case of sale to producers**, the seller shall not be liable to the buyer for personal injury and damage to the consumer's property caused by a defect of a product delivered by the seller to the buyer unless such injury or damage is proved to have been caused by a fault or negligence of the seller or others for whom the seller is responsible.  
**In case of sale to a middleman**, the seller shall be liable to the buyer for personal injury and damage to the consumer's property caused by a defect of a product delivered by the seller to the buyer. The buyer's claim shall be reduced or deemed non-existent if the buyer or a subsequent middleman has intentionally or negligently contributed to the damage or the extent of the damage.  
**The following shall apply both to sale to producers and to sale to a middleman:**  
The seller shall not be liable to the buyer for damage to commercial real and personal property caused by a product delivered by the seller to the buyer.  
The seller shall not be liable for consequential loss, loss of profit or other indirect loss.  
To the extent of the seller's product liability to a third party, the buyer shall indemnify the seller with the same limitations as those provided for the seller's liability in the foregoing paragraphs.  
The above limitations of the seller's liability shall not apply in case of the seller's gross negligence.  
If, under the present provisions, a third party raises a claim for damages against one of the parties, the latter shall forthwith inform the other party thereof.  
The seller and the buyer shall be mutually obliged to let themselves be sued and summoned to the court or arbitration tribunal examining the claim for damages raised against one of the parties because of a damage allegedly caused by the product(s).

#### **EXEMPTION FROM LIABILITY (FORCE MAJEURE)**

31. The following circumstances shall exempt from liability if preventing fulfilment of the agreement or making fulfilment unreasonably burdensome: Industrial conflict and any other circumstance which is beyond the control of the parties, such as fire, war, mobilization or unforeseen military call-up to a corresponding extent, requisitioning, seizure or confiscation, currency or exchange restrictions, riots, civil commotions, lack or scarcity of means of transport, general shortage or scarcity of goods, power and fuel restrictions, and deficiencies in or late delivery of supplies from sub suppliers in consequence of any of the said circumstances.  
If such circumstances have occurred before execution of the agreement, they shall only exempt from liability if their influence on the agreement was unforeseeable when the agreement was executed.
32. The party invoking exemption from liability under clause 31 above, shall forthwith – in writing – inform the other party of the beginning and the end of such exemption.  
If the buyer invokes force majeure, he shall pay all costs incurred by the supplier for safeguarding and protection of the product(s).
33. Irrespective of the provisions of the present terms of delivery, either of the parties may terminate the agreement by written notice to the other party if fulfilment of the agreement is prevented for more than six months because of a circumstance mentioned in clause 31 above.

#### **VENUE AND APPLICABLE LAW**

34. The parties are agreed that any dispute arising from the agreement shall be settled by the Copenhagen Maritime and Commercial Court.
35. Any such dispute shall be governed by Danish law to the exclusion of Danish international private law.