

Almindelige salgs- og leveringsbetingelser for IJ-Container ApS

For alle ordrer og leverancer gælder følgende betingelser:

§ 1 Tilbud, ordre og pris

Stk. 1 Medmindre andet udtrykkeligt er anført, forbeholder sælger sig ret til at ændre tilbud, indtil endelig aftale er indgået. I de tilfælde, hvor sælger fremsender ordrebekræftelse til køber, anses ordrebekræftelsen for det endelige aftaledokument, således at vilkår, der ikke fremgår af ordrebekræftelsen, ikke kan gøres gældende. Købers almindelige indkøbsbetingelser accepteres som udgangspunkt ikke. Såfremt køber ønsker sine almindelige indkøbsbetingelser gjort til en del af aftalen, skal han bringe disse ind i aftalen ved særskilt brev. En klausul i købers almindelige indkøbsbetingelser om, at disse skal gælde, er ikke tilstrækkelig.

Stk. 2 Prisangivelse for leverancer gælder for levering af sælgers oplagringsplads excl. moms. Prisangivelsen for leverancer baserer sig på de for tidspunktet for afgivelse af tilbud eller – når denne foreligger – ordrebekræftelse gældende afgifter, valutakurser samt priser fra sælgers leverandører.

Stk. 3 Indtil køber har modtaget endelig og underskrevet købsaftale på den samlede leverance, er sælger berettiget til med bindende virkning for køber at forhøje den for leverancen angivne pris med afgifter, afgiftsforhøjelser, stigninger i den pris, sælger er blevet pålagt at svare sine leverandører, eller den til en valutakursændring svarende procentsats, som leverance er blevet belastet med efter sælgers prisangivelse i tilbud eller – når den foreligger - ordrebekræftelse.

§ 2 Levering

Stk. 1 De i sælgers tilbud og ordrebekræftelse anførte leveringstidspunkter er omtrentlige, medmindre der i sælgers ordrebekræftelse er indeholdt aftale om konventionalbod for forsinket levering.

Stk. 2 Købers skriftlige meddelelse til sælger med krav om levering og fastsættelse af en sidste rimelig frist, som ikke kan være kortere end 8 dage, kan først afgives, når forsinkelsen overstiger 8 dage.

Køber har i tilfælde af forsinkelse udover denne fastsatte frist kun hæveret og ret til erstatning, såfremt sælger ikke, efter købers fastsættelse af ovennævnte frist, træffer rimelige foranstaltninger til at sikre levering.

Bortset fra konventionalbod i henhold til særskilt aftale, jfr. ovenfor, er ethvert andet krav fra køber i anledning af sælgers forsinkelse udelukket.

Stk. 3 Levering sker efter købers anvisning med hensyn til indretning og benyttelse, og sælger påtager sig ikke noget ansvar herfor.

§ 3 betaling

Stk. 1 Betaling erlægges kontant ved modtagelse af leverance. I tilfælde af at sælger har ydet køber kredit, og betaling af skyldige beløb udebliver mere end 7 dage efter det aftalte forfaldstidspunkt, forfalder ethvert skyldigt beløb til øjeblikkelig betaling. Køber er ved for sen betaling forpligtet til at skyldige beløb at svare morarente i overensstemmelse med den til enhver tid gældende morarentesats i Renteloven.

Stk. 2 Reklamation fra køber i forbindelse med forsinkelse, mangler eller produktansvar berettiger ikke køber til at undlade at betale købesummen til aftalt tid.

Stk. 3 Køber accepterer, at ejendomsretten til varen først overgår til køber, når fuld betaling har fundet sted; hvis betaling ikke finder sted, kan sælger uden videre og for købers regning afhente varen.

§ 4 Mangler og returnering

Stk. 1 Når levering har fundet sted, er køber forpligtet til omgående at foretage en grundig undersøgelse af leverancen.

Stk. 2 Sælgers ansvar omfatter kun mangler, som skyldes fejl i konstruktion, materialer eller fremstilling, og som konstateres af køber inden 3 måneder fra den dag, materiellet blev leveret til køber. Anvendes materiellet mere intensivt, end det er aftalt eller kan anses forudsat ved aftalens indgåelse, forkortes denne periode forholdsmæssigt.

Stk. 3 Køber skal give skriftlig meddelelse om mangler til sælger uden ugrundet ophold, efter at manglen er konstateret af køber og i intet tilfælde mere end 2 uger efter, at den i stk. 2 nævnte frist er udløbet. Meddelelsen skal indeholde beskrivelse af, hvorledes manglen ytrer sig. Såfremt der er grund til at tro, at manglen kan medføre risiko for skade, skal reklamation ske straks. Såfremt køber ikke underretter sælger om en mangel inden for de frister, som er angivet i dette punkt, mister køber sin ret til at fremsætte krav i anledning af manglen.

Stk. 4 Såfremt en leverance lider af en mangel, er sælger berettiget til, inden for et efter forholdene rimeligt tidsrum efter modtagelsen af købers reklamation, at udbedre manglen gennem omlevering eller reparation efter sælgers valg.

Stk. 5 Køber er på sælgers forlangende herom pligtig til for egen regning og risiko at demontere og sende leverancen eller dele heraf til sælger eller dennes leverandør med henblik på undersøgelse af reklamationens berettigelse, respektive for udbedring af manglen.

Såfremt eventuel demontering og montering medfører indgreb i andet end materiellet, er arbejdet og omkostningerne herved sælgers uvedkommende.

Stk. 6 Varer modtages kun retur af sælger efter forudgående skriftlig aftale herom mellem parterne og med fradrag af returneringsgebyr.

§ 5 Produktansvar

Stk. 1 Sælger er kun ansvarlig for personskade, hvis det bevises, at skaden skyldes fejl eller forsømmelse begået af sælger eller andre, som han har ansvaret for. Sælger er ikke ansvarlig for skade på fast ejendom eller løsøre.

Stk. 2 Uanset foranstående er sælger ikke ansvarlig for skader, herunder personskader – forårsaget ved benyttelse af nogen del af sælgers leverance i direkte eller indirekte forbindelse med driften af luftfartøj eller "off-shore"-installationer eller for skader, der direkte eller indirekte er forårsaget af eller står i forbindelse med atomkernerreaktioner, eller for skader nogen del af sælgers leverance måtte have forårsaget i USA eller Canada, eller for skader, som indtræffer senere end 10 år efter, at levering til køber har fundet sted.

Stk. 3 Bliver sælger pålagt produktansvar over for tredjemand, er køber forpligtet til at holde sælger skadesløs for sådanne krav incl. sagsomkostninger og omkostninger til sagkyndiges bistand til fastlæggelse af skyldsspørgsmålet og skadens årsag og omfang, i det omfang disse krav overstiger de forpligtelser, sælger har påtaget sig i henhold til bestemmelserne i nærværende salgs- og leveringsbetingelser. Såfremt sådant krav er fastslået overfor sælger ved inappellabel dom, kan en sådan retsafgørelse ikke anfægtes af køber, dersom denne er blevet underrettet om sagsanlægget og i henhold til de gældende processuelle regler har haft adgang til at varetage sine interesser.

Stk. 4 Fremsættes produktansvarskrav overfor en af parterne, er de gensidigt pligtige at underrette hverandre.

§ 6 Generel ansvarsbegrænsning

Stk. 1 I alle tilfælde, hvor sælger måtte blive ansvarlig overfor køber eller tredjemand i medfør af reglerne om produktansvar eller som følge af forsinket eller mangelfuld levering, kan sælger ikke under nogen form gøres ansvarlig for indirekte tab, herunder driftstab, avancetab, tab af goodwill, tabt fortjeneste og tab, som er opstået ved købers manglende kontraktmæssige opfyldelse af sine forpligtelser overfor tredjemand.

§ 7 Værneting og lovvalg

Twistigheder i anledning af købsaftalen og alt, som har sammenhæng hermed, afgøres ved Sø- og Handelsretten i København.

Ved afgørelse af tvister skal dansk ret finde anvendelse.

General Terms and Conditions for IJ-Container ApS

The following terms and conditions apply to all orders and deliveries:

Clause 1 Quotation, Order and Price

Sub-clause 1 Unless otherwise expressly stated the Seller reserves the right to modify quotations until final agreement has been entered into. Where the Seller forwards an order confirmation to the Buyer, this order confirmation shall be deemed to be the conclusive document of agreement, and consequently terms not stated in the order confirmation may not be asserted. In general, the Buyer's general conditions of purchase may not be accepted. If the Buyer intends that his general conditions of purchase are going to be part of the agreement, these shall be brought into the agreement by special letter. A proviso in the Buyer's general conditions of purchase that these are to be applicable will not be adequate.

Sub-clause 2 Indication of price for deliveries shall extend to delivery ex the Seller's storage facility exclusive of VAT. Any indication of price on deliveries shall be based on the direct and indirect taxes, exchange rates and prices from the Seller's suppliers prevailing at the time of the quotation - or when available - the order confirmation.

Sub-clause 3 Until the Buyer has received a conclusive and signed purchase agreement concerning the total delivery, the Seller is entitled with binding effect on the Buyer to increase the price quoted for the delivery with any direct and indirect taxes, increases in such taxes, increases in the price which the Seller has been charged to pay his suppliers, or with any rate corresponding to the exchange rate changes which the delivery has been burdened with subsequent to the Seller's indication of price in his quotation or - when available - his order confirmation.

Clause 2 Delivery

Sub-clause 1 The times of delivery stated in the Seller's quotation and order confirmation are approximate, unless an agreed penalty for delay in delivery is included in the Seller's order confirmation.

Sub-clause 2 Written notice from the Buyer to the Seller demanding delivery and specifying a final, reasonable time which may not be shorter than 8 (eight) days may not be given until the delay exceeds 8 (eight) days.

Where a delay exceeds this specified time the Buyer is only entitled to terminate the agreement without notice and to receive damages, if the Seller does not take reasonable measures to secure delivery subsequent to the Buyer's specification of the above time.

Except for any agreed penalty pursuant to special agreement, cf. above, any other claim from the Buyer in connection with the Seller's delay shall be ruled out.

Sub-clause 3 Delivery shall be made according to the Buyer's instructions as regards arrangement and use and for which the Seller do not take the responsibility.

Clause 3 Payment

Sub-clause 1 Payment shall be made in cash upon receipt of the delivery. Where the Seller has granted a credit to the Buyer, and the Buyer fails to pay amounts due more than 7 (seven) days after the agreed due date, all amounts due shall be payable forthwith. In case of late payment the Buyer shall be obliged to pay a default interest on all amounts due in compliance with the default interest as amended from time to time pursuant to the Renteloven (Danish Act on Interest).

Sub-clause 2 Any complaints from the Buyer in connection with delay, defects or product liability shall not entitle the Buyer to fail to pay the purchase price at the agreed time.

Sub-clause 3 The buyer accepts that the ownership of the goods will not be transferred to the buyer until full payment has been made taken place, if payment is not made, the seller can pick up the item without delay and at the buyer's expense.

Clause 4 Defects and Returning

Sub-clause 1 When delivery has taken place the Buyer shall be obliged to carry out an immediate and thorough examination of the delivery.

Sub-clause 2 The Seller's liability shall only include defects which are due to faults in design, materials, or manufacture, and which are established by the Buyer within 3 (three) months from the day the equipment was supplied to the Buyer. If the equipment is used more intensively than agreed or than could be contemplated upon entering the agreement, this period shall be shortened proportionally.

Sub-clause 3 The Buyer shall be obliged to give written notice of any defects to the Seller immediately after establishing the defect, and under no circumstances more than 2 (two) weeks after the time in sub-clause 2 has expired. The notice shall include a description of how the defect manifests itself. Where there is reason to believe that the defect may cause risk or damage complaint shall be made forthwith. Where the Buyer does not inform the Seller of a defect within the times stated hereunder, the Buyer loses his right to make a claim in connection with the defect.

Sub-clause 4 Where a delivery is defective, and after receipt of the Buyer's complaint, the Seller is entitled to - within a reasonable period considering the circumstances - to remedy the defect by replacing or repairing the defective items at the Seller's option.

Sub-clause 5 At the request of the Seller the Buyer shall be obliged to at his own account and risk to dismantle and return the entire delivery or parts thereof to the Seller or his supplier with a view to examining the legitimacy of the complaint and remedy of the defect, respectively.

Where any dismantling or fitting interferes with other than the equipment, then the related work and costs will be of no concern to the Seller.

Sub-clause 6 Returned goods will only be received by the Seller subsequent to prior written agreement between the parties and after deduction of the returning fee.

Clause 5 Product Liability

Sub-clause 1 The Seller shall only be responsible for personal injuries, if it is proven that the injury is due to error or neglect by the Seller or others for whom he is responsible. The Seller shall not be responsible for damage to property or chattels.

Sub-clause 2 Notwithstanding the above the Seller shall not be responsible for any damages, including personal injuries - caused during application of any parts of the Seller's delivery in a direct or indirect connection with the operation of an aircraft or "off-shore" installations, or for any damages which are directly or indirectly caused by or connected with nuclear reactions, or for any damages any part of the Seller's delivery may have caused in the USA or Canada, or for any damages which occur more than 10 (ten) years after delivery to the Buyer has taken place.

Sub-clause 3 Where product liability towards a third party is imposed on the Seller, the Buyer shall be obliged to indemnify the Seller for such claims including legal costs and costs for expert assistance in determining the question of guilt or innocence and the extent of and reason for the damage where such claims exceed the obligations which the Seller has undertaken under the provisions in these General Terms and Conditions. Where such a claim has been established against the Seller by a final and conclusive judgment such a legal decision may not be disputed by the Buyer, if he has been informed of the legal action and pursuant to the prevailing procedural rules has been allowed to safeguard his interests.

Sub-clause 4 Where a claim for product liability is made against any of the parties they are mutually obliged to inform the other party.

Clause 6 General Limitation of Liability

Sub-clause 1 In all cases where the Seller will be liable towards the Buyer or a third party pursuant to the rules on product liability or as a consequence of delayed or defective delivery, the Seller shall not under any circumstances be made liable for indirect losses, including loss of profits, loss of goodwill, lost earnings and any losses arisen by the Buyer's non-performance of his contractual obligations towards a third party.

Clause 7 Choice of Law and Venue

Any dispute arising out of or in connection with the purchase agreement and everything connected therewith shall be brought before the Maritime and Commercial Court in Copenhagen.

Any dispute shall be settled under Danish law.