

Terms and conditions of sales and deliveries

- 1. General**
- 1.1. These Terms apply to all sales made by A/S Vestfrost except where, and to the extent to which, they are expressly derogated from by separate written agreement between the parties.
- 1.2. The buyer's terms and conditions for purchase does not apply to the contract between the parties, unless A/S Vestfrost agrees to this in writing. If A/S Vestfrost in writing accepts that the buyer's terms and conditions for purchase applies to the contract between the parties, the provisions of the order confirmation and the terms and conditions of sales and deliveries will take precedence in the event of discrepancies.
- 2. Offer and order confirmation**
- 2.1. A/S Vestfrost's offer remains valid for 20 days, unless otherwise expressly agreed and confirmed in writing by A/S Vestfrost.
- 2.2. A/S Vestfrost only commits to delivering what is expressly contained in the order confirmation.
- 3. Prices and Payment – Retention of Title**
- 3.1. The price applicable to Goods is the price that is current according to the price list at the time of delivery. All prices are quoted exclusive of VAT, public dues of any nature, packaging or transport etc.
- 3.2. Payment must be made net cash no later than at the time of delivery, unless otherwise expressly agreed. In the event of late payment, A/S Vestfrost is entitled to terminate the contract or to charge default interest at 2% per month or part thereof. In such situations, A/S Vestfrost is furthermore entitled to terminate other sales contracts with the buyer without notice and with immediate effect in case the Goods have not yet been delivered.
- 3.3. A/S Vestfrost retains title in the Goods in all respects until the buyer has actually paid the purchase price and all other costs in connection with the purchase of the Goods.
- 4. A/S Vestfrost's performance**
- 4.1. A/S Vestfrost's obligation to deliver pertains only to the Goods specified in the order confirmation. A/S Vestfrost undertakes to deliver Goods of reasonable quality with regard to materials and workmanship.
- 5. Time and Place of A/S Vestfrost's delivery**
- 5.1. All stated delivery times are approximate and non-binding, unless otherwise expressly agreed and confirmed in writing by A/S Vestfrost.
- 5.2. All deliveries are "EX WORKS" (INCOTERMS 2010). The risk in the Goods passes to the buyer upon delivery. In cases where the buyer is obliged to collect the Goods from A/S Vestfrost's business premises, the risk passes when the Goods are ready for collection and the buyer has been so advised.
- 5.3. Should the parties have agreed a place for delivery other than A/S Vestfrost's business premises, transport from A/S Vestfrost's business premises, including loading the Goods onto the truck or ship etc. is at the buyer's risk and expense.
- 5.4. If the buyer does not collect or take possession of the Goods when the buyer is obligated to do so, A/S Vestfrost may immediately and without notice terminate the purchase or enter an agreement with a third party regarding the storage of the Goods at the risk and expense of the buyer.
- 6. Delay**
- 6.1. In the event of delay in the delivery of Goods, the buyer must notify A/S Vestfrost in writing, immediately upon discovering such delay. Should the buyer fail to do so, the buyer will lose the right to make any claim in respect of such delay. The buyer must, at the same time as providing such notice, give A/S Vestfrost a new and reasonable deadline, and in any event no less than 1 month, within which to deliver the Goods pursuant to the contract.
- 6.2. Should A/S Vestfrost fail to deliver the Goods within the new deadline as stipulated by the buyer under clause 6.1., the buyer is entitled to terminate the contract with immediate effect by providing A/S Vestfrost with written notice to that effect. In the event that the delayed Goods were part of a larger order, the entitlement to terminate applies only to those Goods that were delayed, and not to the entire contract or order.
- 6.3. Should the buyer terminate a contract pursuant to clause 6.2. above, the buyer may claim damages from A/S Vestfrost for any additional costs incurred in obtaining equivalent goods from another source. However, the maximum amount payable by way of damages in respect of any defective Goods is 20% of the contract price of the defective Goods.
- 6.4. The buyer is not entitled to any damages or compensation in respect of A/S Vestfrost's delay beyond those stipulated in clause 6.3. above.
- 7. Duty of inspection and notice of defects**
- 7.1. The buyer must inspect the Goods thoroughly, immediately upon delivery, to ensure that the Goods conform with the contract and are free from defects.
- 7.2. Written notice of defects which the buyer has become aware of or ought to have become aware of at the inspection mentioned in clause 7.1. must be provided to A/S Vestfrost immediately upon delivery and no later than 8 days after delivery of the Goods. In the event of other defects, the buyer must notify A/S Vestfrost of the defect, as soon as he became aware or ought to have become aware of the defect.
- 7.3. Should the buyer fail to provide written notice of the defect to A/S Vestfrost, in accordance with clause 7.2., the buyer will be precluded from subsequently making any claim in respect of such defects or damages.
- 7.4. If the buyer fails to provide written notice of the defect within 12 months of delivery of the Goods in question, the buyer is in all respects precluded from asserting any claims regarding defects, damages, potential warranty claims or any other rights or remedies.
- 8. Defects**
- 8.1. Should the buyer notify A/S Vestfrost of a defect in accordance with clause 7.2., A/S Vestfrost is entitled to repair or replace the Goods or to give the buyer a proportional reduction in price. If A/S Vestfrost wishes to remedy the defect, the buyer must make the Goods available to A/S Vestfrost, after being provided with a minimum of 7 days' notice by A/S Vestfrost. If the buyer does not make the Goods available to A/S Vestfrost at the specified time, the buyer will forfeit the right to remedies for breach of contract in respect of the defect in question.
- 8.2. In the event that A/S Vestfrost does not repair or replace the Goods or provide the buyer with a proportional reduction in price within a reasonable time after receiving notice of the defect from the buyer, the buyer will be entitled either to engage a third party to repair the defect, or to terminate the contract, but only in respect of the defective Goods.
- 8.3. The buyer has no right to remedies for breach of contract beyond the rights set out in clause 8.2.
- 8.4. The buyer may only claim damages from A/S Vestfrost in respect of defective Goods if the buyer either engages a third party to repair the defect, or terminates the contract, in accordance with clause 8.2., and only in respect of the additional costs incurred in either having the defect repaired or obtaining equivalent goods from another source, as the case may be. However, the maximum amount payable by way of damages in respect of any defective Goods is 20% of the contract price of the defective Goods.
- 8.5. The buyer has no right to damages or compensation in respect of defects beyond the rights set out in clause 8.4.
- 8.6. If the buyer engages a third party to repair the defective Goods without being entitled to do so pursuant to clause 8.2., the buyer is not entitled to claim compensation from A/S Vestfrost for the costs incurred in so doing.
- 9. Limitation of Liability and third-party Liability**
- 9.1. A/S Vestfrost is only liable for defective Goods if the buyer has used the Goods as prescribed, in a sound manner, and according to A/S Vestfrost's directions, if any. A/S Vestfrost's liability is in any event limited to defects in A/S Vestfrost's own Goods and does not extend to cover defects or faults that might arise in connection with the Goods having been incorporated into third party products. A/S Vestfrost will not be liable whatsoever in respect of any Goods that have been changed or interfered with without A/S Vestfrost's prior written consent.
- 9.2. A/S Vestfrost will in no circumstances be held liable for operating losses, loss of time or profits, or other indirect losses suffered by the buyer, the buyer's customers or other users of the Goods. The buyer may not claim compensation to cover the costs incidental to dismantling and remounting the objects or installations in which the Goods might have been incorporated.
- 9.3. To the extent that A/S Vestfrost might be held liable towards third parties, the buyer is obligated to reimburse A/S Vestfrost for the part of the damages exceeding 20% of the invoice value of said. If A/S Vestfrost's liability to pay damages concerns matters for which A/S Vestfrost has waived responsibility to the buyer, the buyer is obligated to reimburse A/S Vestfrost for the entire amount A/S Vestfrost has been ordered to pay a third party.
- 10. Product Liability**
- 10.1. As between A/S Vestfrost and the buyer, A/S Vestfrost excludes any liability for damage to commercial property that may be attributable to the Goods. If A/S Vestfrost is met with claims for damages, from the buyer's customers, those customers' customers, or other end-users of the Goods, in respect of damage to commercial property, the buyer is obliged, as between the buyer and A/S Vestfrost, to indemnify A/S Vestfrost for any such claim, and to cover A/S Vestfrost's reasonable costs in defending any such claim.
- 11. Intellectual property rights and confidentiality**
- 11.1. All intellectual property rights in the Goods, or any material delivered in connection with the Goods, belong to A/S Vestfrost.
- 11.2. All rights and title to drawings, models and other technical documents concerning the Goods, provided by A/S Vestfrost to the buyer, regardless of whether they were provided before or after entering into the contract, remain the property of A/S Vestfrost. Except as otherwise expressly agreed by A/S Vestfrost, such material may only be used for the proper use or resale of the Goods.
- 11.3. The buyer may not, without A/S Vestfrost's prior written consent, disclose information of a commercial or technical nature to any third party, which information is, by its nature, confidential, or which A/S Vestfrost, at the time of entering into the contract or subsequently, stated was confidential.
- 12. Force majeure**
- 12.1. In the event of a force majeure, the parties are released from their respective obligations for as long as the force majeure persists. Force majeure will be said to exist if performance of the contract has become significantly more onerous as a result of, among other things, an event such as war, civil war, riots, acts of terrorism, government restrictions, bans on imports or exports, natural disasters of any kind, as well as widespread or local labour disputes, fire, power failure, computer viruses or the like, unless it can be shown that the party ought to have been able to predict such event at the time of entering into the contract.
- 13. Choice of Law and Venue**
- 13.1. Any disputes arising out of or in connection with contracts between A/S Vestfrost and the buyer that cannot be settled amicably are to be determined pursuant to Danish law by the Courts of Denmark.
- 13.2. However, if the buyer is domiciled outside the European Union the dispute must be determined pursuant to Danish law by arbitration by the Danish Institute of Arbitration in Copenhagen and pursuant to the existing rules of the Danish Institute of Arbitration.
- In case of discrepancy between the Danish version and the English version of the Terms and Conditions, the Danish version shall prevail.**