

# GENERAL TERMS AND CONDITIONS OF SALES AND DELIVERY

Brødrene A & O Johansen A/S (AO) January 2019

## 1 Validity

- 1.1 These general terms and conditions of sales and delivery, including the statement of fees in Section 13, apply between Brødrene A & O Johansen A/S (AO) and any customer in relation to all purchases, agreements, orders and deliveries, including via AO's e-commerce system (online sales, mobile or tablet sales), unless otherwise agreed in writing and confirmed by AO.
- 1.2 The general terms and conditions of sales and delivery apply without amendments, additions or appendices and take precedence over any of the customer's trading conditions and any of the customer's obligations to and agreements with third parties, which are all extraneous or without legal effect in relation to AO. These general terms and conditions of sales and delivery also apply, with the necessary language adaptations, to AO's rental of machines, equipment or tools, in addition to AO's applicable rental conditions. Sections 5.2, 5.3, 9 and 11 in these general terms and conditions of sales and delivery do not apply to leasing.
- 1.3 AO is at all times entitled to amend these general terms and conditions of sales and delivery. Such amendments, indicating notice/entry into force, will be available on AO's website AO.dk.
- 1.4 Upon establishment as customer with AO, the customer also accepts these general terms and conditions of sales and delivery.

## 2 Quotes

- 2.1 Quotes (order confirmations) provided by AO apply for a maximum period of 30 days from the date the quote was provided. Quotes are binding during the period of validity, except as specified under Sections 2.2 and 3.3 below. After the period of validity, the quote expires in its entirety.
- 2.2 AO can always amend or withdraw provided quotes prior to the customer's acceptance.

## 3 Price and delivery

- 3.1 All prices are stated excluding VAT, unless stated otherwise by AO. Interest is added to the prices, cf. Section 6, in addition to costs and fees for transportation etc., in accordance with the rules regarding costs and fees below, cf. Section 13.
- 3.2 Information in product information or price lists is only guiding. AO is only bound by prices and product specifications that are expressly stated or referred to in the order confirmation.
- 3.3 At all times and irrespective of Sections 2.1, 2.2 and 3.2, AO reserves the right to raise prices, if prior to delivery AO incurs new or increased costs, inter alia, as a result of changes in duty rates, taxes, fees, currency exchange rates, raw material prices, transportation costs or documented price increases from suppliers. The price is also raised in case of increased costs for storage and handling as a result of the customer's situation, cf. Section 3.8.
- 3.4 In the case of the customer's absent or delayed payment, AO is, regardless of whether the purchase is upheld or cancelled, entitled to halt all deliveries to the customer, until all outstanding amounts are paid.
- 3.5 The place of delivery is the customer's address, unless otherwise is specified in the order confirmation.
- 3.6 Payments with discharging effect may only be made to AO.
- 3.7 AO may choose to make partial deliveries and partial invoicing.
- 3.8 If, after the delivery time has passed, the customer fails to collect items or provide instructions regarding shipping, AO is entitled to store and delay the service at the customer's expense. If the customer fails to collect items despite written requests, AO is – including in cases where items are specially produced according to the customer's instructions or specifications – entitled to sell these items in the best possible manner, at the customer's expense.

## 4 Delivery time

- 4.1 Deliveries are considered timely, even if delivery is postponed by up to 3 days beyond the agreed delivery time. For delivery of non-stocked items, that are specially ordered or specially produced (hereinafter referred to as "SPECIAL ORDERS/ORDER ONLY ITEMS"), delivery is considered timely, even if it is postponed by more than 3 days, if the delayed delivery is caused by or due to matters relating to AO's suppliers. Such postponed delivery does thereby not give the customer the right to invoke remedies for non-performance.
- 4.2 In case of delays to delivery, except for SPECIAL ORDERS/ORDER ONLY ITEMS of more than 3 days after the agreed delivery time, the customer has the choice between demanding the delivery of the ordered item or cancelling the agreement, as such a delay is considered material, cf. Section 4.3. Cancellation shall in such cases occur immediately and in writing. In case of delays to delivery of SPECIAL ORDERS/ORDER ONLY ITEMS the customer does not have the right to cancel, as long as AO can demonstrate that delivery actually will occur.
- 4.3 If delays to delivery are due to circumstances which, pursuant to Section 8.1, constitute a basis for exemption from liability or are due to acts or omissions on the part of the customer, the delivery time will be extended to the extent that the circumstances in question justify it or otherwise as considered reasonable according to the circumstances. The delivery time is extended even if the delay occurs after the expiry of the originally agreed delivery deadline.
- 4.4 In case of cancellation in accordance with Section 4.2, the customer is entitled to demand no more than a reimbursement of the already paid purchase price from AO. AO's liability for compensation is therefore limited and maximised to an amount corresponding to the paid purchase price and does not comprise compensation for the customer's direct or indirect losses, such as loss of revenue, additional labour costs, daily penalties to third parties etc. The provisions in Section 12 Product Liability and Limitation of Liability also apply.
- 4.5 If the customer does not cancel the agreement, the customer is not entitled to any compensation for the delayed delivery.
- 4.6 Except for as mentioned above, the customer cannot invoke other remedies for non-performance or compensation claims against AO as a result of delays.

## 5 Product specification and ownership

- 5.1 Items are delivered in accordance with the specification in AO's quote or order confirmation. It is the customer's obligation to ensure that the specification is in accordance with and fulfils the customer's requirements and desires for the order.
- 5.2 AO retains the ownership of the sold items until the entire purchase price, in addition to any additional costs and interests are paid by the customer.
- 5.3 Until the ownership has been transferred to the customer, the products shall be insured by the customer and stored separately. The customer commits to not move, pledge, rent, lease or otherwise dispose of the sold item, until the ownership has been transferred to the customer. The customer must also not make any changes to the delivered item.

## 6 Payment terms and offsetting

- 6.1 Payment shall at the latest be received by AO on the due date specified in the invoice. AO's account information is specified on the issued invoice.
- 6.2 If payment occurs after the due date, AO calculates interest for overdue payment on the outstanding amount of 2% per commenced month. Accrued interest and costs are attributed to the customer's account and is paid prior to other debt.

# GENERAL TERMS AND CONDITIONS OF SALES AND DELIVERY

Brødrene A & O Johansen A/S (AO) January 2019

- 6.3 The customer is not entitled to cancel AO's payment claims by way of offsetting or exercising the right of retention, regardless of whether the customer's claim derives from different orders or from other legal relationships between the parties.
- 6.4 In case of delayed payment by the customer, AO has the right to suspend the fulfilment of its obligations in relation to the customer regarding the relevant items and any other legal relationships between the parties.
- 6.5 In case of delayed payment by the customer, AO has the right to demand immediate payment of claims not yet due for payment, in accordance with the rules regarding anticipated non-performance.
- 6.6 In case of delayed payment by the customer, AO has the right to receive payment by offsetting any customer bonus relating to subsequent orders.
- 6.7 In case of delayed payment by the customer, AO is entitled to cancel the agreement regarding the relevant items and demand compensation for the losses incurred by AO.

## 7 Deficiencies and remedies

- 7.1 Upon delivery, the customer is obliged to immediately conduct an inspection of the item. Complaints shall be made in writing within the deadlines mentioned in Sections 7.2 and 7.3. Failure to submit a timely complaint entails that the customer is prevented from making subsequent objections.
- 7.2 Customer's complaints regarding deficiencies of any nature, hereunder, deterioration, deficiencies or damages to the delivered item, shall occur immediately upon receipt of the item.
- 7.3 Customer's complaints regarding non-visible deficiencies, that are due to errors in construction, materials, or manufacturing, shall at the latest occur 12 months from the delivery date.
- 7.4 For deficiencies about which the customer has submitted a timely complaint in accordance with Sections 7.1-7.3, AO commits to remedy such deficiencies. In case of deficiencies, AO is free to choose between repair, re-delivery or crediting of the original purchase price for the delivered items as fulfilment of AO's obligation to provide remedies. AO's liability for deficiencies is therefore limited and maximised to the paid purchase amount. In relation to the customer, AO is under no circumstances liable for direct or indirect losses of any nature, such as operating losses, loss of profits, loss of time, additional labour costs, daily penalties to third parties etc. For SPECIAL ORDERS/ORDER ONLY ITEMS AO's liability is further limited by AO's suppliers' limited liability in relation to AO. Reference is also made to the general limitation on liability in Section 12, which also applies regarding liability for deficiencies under this Section 7.
- 7.5 For deliveries to unstaffed delivery addresses and in case of complaints after their receipt, it is presumed that any visible deterioration, deficiency or damage has occurred after delivery has occurred, whereby AO is not liable. In such cases, the burden of proof that any deterioration, deficiency or damage has occurred before delivery is on the customer.
- 7.6 AO decides whether remedies shall be provided at the place where the deficient items are installed, or at AO. If remedies are provided at AO, the deficient parts shall upon request be sent to AO at the customer's expense. Returns after remedies have been provided are at AO's expense.
- 7.7 If AO does not provide remedies within a reasonable time after the customer has complained, the customer is entitled to cancel the agreement with AO in writing regarding the deficient part of the item in question.
- 7.8 In case of cancellation in accordance with Section 7.7, the customer is entitled to demand no more than a reimbursement of the already paid purchase price from AO. AO's liability is therefore limited and

maximised to the paid purchase price and does not comprise compensation for the customer's direct or indirect losses of any nature, such as operating losses, loss of profits, additional labour costs, daily penalties to third parties etc. Reference is also made to the general limitation of liability in Section 12 which applies to liability for deficiencies under this Section 7.

- 7.9 Other than what is mentioned above, the customer cannot invoke other remedies against AO as a result of deficiencies.

## 8 Force majeure

- 8.1 The following circumstances result in exemption from liability, if they prevent the fulfilment of the agreement or render the fulfilment of the agreement unreasonably burdensome: labour disputes and any other circumstances outside the parties' control including: fire, war, mobilisation, requisition, embargo, currency restrictions, insurrection and instability, lack of transportation means, general shortage of goods, power restrictions, in addition to deficiencies to or delays of deliveries from sub-contractors, which are due to any of the mentioned circumstances in this Section.
- 8.2 Regarding use of AO's website, AO.dk, Section 10 generally applies. Non-exhaustive examples of force majeure in relation to purchases via AO.dk:
  - Crashes in and/or failing access to IT systems or destruction/damage to data in these systems, that can be attributed to the below-mentioned incidents, regardless of whether AO is responsible for the operation of the systems.
  - Power failures or failures in telecommunication at AO.
  - Regulatory action.
  - Terrorism or vandalism (hereunder computer viruses and/or hacking).

## 9 Returns

- 9.1 In accordance with the present general terms and conditions of sales and delivery, AO commits to accept returns on the following conditions:
  - The item must be complete and in saleable condition.
  - The item must be undamaged and with original packaging intact.
  - The item must be specified and sorted.
  - The item must be documented purchased from AO via a delivery note and/or invoice.
  - The item must not have been removed from AO's product range.
  - Items such as pipes, cables or other items in measured lengths or special dimensions will not be accepted as returns, and items such as slate, metal plates, gutters and fragile pipes such as ventilation pipes, etc. will also not be accepted as returns.
  - SPECIAL ORDERS/ORDER ONLY ITEMS can only be returned on the condition that AO's supplier accepts that the items are returned to them.
  - If the items do not meet the above conditions for returns, the items will be returned or disposed of at the customer's expense.
  - If the items are not specified and sorted and AO nevertheless accepts the return, a preparation fee per commenced ½ working hour is added.
- 9.2 Furthermore, the following conditions apply to customer returns:
  - Items can be returned no later than 90 days after delivery.
  - Fees are paid in accordance with Section 13 for returns of items.
  - Where SPECIAL ORDERS/ORDER ONLY ITEMS can be returned, cf. Section 9.1., a credit note is only issued when AO's supplier has credited AO for the purchase.
- 9.3 The return right only applies to sales of items and therefore does not apply to leased material etc.
- 9.4 Returned items can be delivered to one of AO's stores in Denmark. If the customer wants AO to retrieve an item for return, this must be

# GENERAL TERMS AND CONDITIONS OF SALES AND DELIVERY

Brødrene A & O Johansen A/S (AO) January 2019

arranged in advance with AO.

- 9.5 Standard packaging, including pallets, frames and wooden boxes that are invoiced to the customer, will be credited to the customer upon return, providing such packaging is in undamaged condition. Crediting occurs with the deduction of return fees, cf. Section 13. Disposable packaging is not credited.
- 9.6 If an item is accepted as a returned item, cf. Sections 9.1 - 9.4, the customer is credited an amount on the customer's account with AO. The amount which the customer is credited (hereinafter referred to as "RETURN PRICE"), corresponds with the lowest invoiced price for the concerned item within the last 90 days prior to the return. RETURN PRICE, credited to the customer, can only be offset by already made or future purchases. Returned items can therefore never result in a payment of the item's purchase price or other amount.

## 10 Intellectual property rights and website

- 10.1 For purchases via AO.dk, the website's content, hereunder e.g. text, graphics, pictures, logos, icons, software and other material (hereinafter referred to as "MATERIAL"), which directly or indirectly are part of the website, is protected in accordance with both Danish and international copyright, trademark law or in accordance with other legislation. The MATERIAL belongs to AO. The arrangement, hereunder inter alia the collection, presentation, layout and other organisation of the MATERIAL, is subject to and protected by Danish and international copyright and belongs to AO. Unauthorised use of the MATERIAL may constitute an infringement of AO's rights, hereunder inter alia AO's copyrights and trademark rights. The customer is not permitted to change the MATERIAL or to sell, rent, lease, reproduce, display, publicly display, or otherwise wholly or partially disseminate the MATERIAL for public or commercial purposes, or otherwise use the MATERIAL in such a manner that is only permitted for the MATERIAL's rights holder(s). Without written approval from AO, none of the MATERIAL, regardless of context, may be reproduced or otherwise used on any other website or in a network of computers. This applies regardless of whether the network is a closed network of users with restricted access. AO.dk may contain links to third-party websites. AO is not responsible for the concerned websites, and the use of these is at the customer's responsibility. Please direct questions regarding AO.dk to AO's support at +45 70 28 23 73 or support@ao.dk.
- 10.2 The information, guidance and other services that are available or otherwise provided by AO at AO.dk are purely advisory in nature and should not be perceived as and do not constitute technical advice from AO. AO is not liable for compensation for direct or indirect losses relating to the use of the services provided at AO.dk. Reference is also made to Section 12 below.

## 11 Building delivery clause

- 11.1 If a delivery is properly applied to construction in Denmark, where AB 92/ABT 93 apply, this building delivery clause relating to limitation periods will apply, albeit with any modifications resulting from the Danish Statutory Limitation Act's deadlines: "AO's liability for deficiencies in deliveries ceases 5 years after the delivery of the construction in which the delivery is included. For deliveries to warehouses or resales, however, the liability ceases to apply at the latest 6 years after the delivery to the customer. If it is considered proven that a claim regarding deficiencies for deliveries cannot or can only with great difficulty be brought against AO's buyer or against subsequent buyers, it is recognised that the claim can also be invoked directly against AO. In such cases, AO can only be held liable for deficiencies to the extent AO's own delivery is deficient and furthermore only to the extent that it follows from AO's

own contractual relationship with the buyer, except for the deficiency liability period, cf. above. However, AO acknowledges that it may in any case be sued together with the buyer or subsequent buyers in the light of the parties' relationship. The case shall be brought before the Danish Building and Construction Arbitration Board. Reference is made to AB92/ABT93 Section 10, subsection 4, cf. Section 5, subsection 5."

## 12 Product liability and limitation of liability

- 12.1 Besides the remedies set forth in these general terms and conditions, the customer has no claims, and AO is under no circumstances responsible for product liability or otherwise liable for direct or indirect losses or other financial consequential losses, hereunder operating losses, loss of time or loss of profits. AO's limitation of liability pursuant to this provision shall also apply to any errors or omissions in any of AO's information, specifications or instructions regarding durability, use or the like of a product.
- 12.2 The customer is encouraged to seek technical advice from a third party in connection with choice of products and their functions, as AO is not responsible for this, unless the parties have entered into a separate written agreement on this matter.
- 12.3 AO is not liable for damages to movable or immovable property occurring while items are in the customer's possession. AO is also not liable for damages to products that are produced by the customer or to products in which these are included. Otherwise, AO is only liable as described above in Section 12.2 and below in Section 12.4 regarding personal injury.
- 12.4 AO is only liable for personal injury if the injury is demonstrably caused by AO's errors or neglect.
- 12.5 Should AO be found liable for deficiencies or defects in items (hereunder according to the rules regarding product liability) in relation to third parties, the customer is obligated to indemnify AO.
- 12.6 For SPECIAL ORDERS/ORDER ONLY ITEMS, AO is only liable for errors and deficiencies to the extent the supplier is liable.

## 13 Costs and fees policy

- 13.1 Delivery costs
- 13.2 Retrieval of orders except for SPECIAL ORDERS/ORDER ONLY ITEMS in an AO store occur without delivery costs.
- 13.3 For delivery to the customer, cf. Section 3.5 of net orders under DKK 1,750 (and for crane truck delivery of net orders under DKK 3,000) a delivery cost will be charged, cf. below.
- Rush delivery DKK 199.
  - Mail delivery DKK 19.
  - Day delivery DKK 149.
  - Night delivery DKK 199.
  - Crane truck delivery DKK 799.
  - Return retrieval DKK 199.
- 13.4 Regardless of order size, the following costs will be charged in the cases below:
- For all deliveries and return retrievals there is an energy charge of DKK 39 per delivery.
  - For all deliveries of zinc plates there is a fixed freight charge of DKK 800 per delivery.
  - For all deliveries of building site fence panels there is a fixed freight charge of DKK 800 per delivery.
  - For transportation of dangerous goods there is a charge for coverage of the external transporter's costs for handling of transportation of dangerous goods.
- 13.5 Orders of non-stocked items and SPECIAL ORDERS/ORDER ONLY ITEMS result in the charge of a minimum fee of DKK 95 per order per supplier with the addition of any costs or fees from AO's suppliers. For all fees or other costs charged by AO's suppliers exceeding DKK 95, the full costs from the supplier will be invoiced.
- 13.6 For delivery abroad, the customer pays all shipping costs.

# GENERAL TERMS AND CONDITIONS OF SALES AND DELIVERY

Brødrene A & O Johansen A/S (AO) January 2019

- 13.7 Return fees
- 13.8 Fees for acceptance and handling of returned items and packaging is generally estimated at 20% of the RETURN PRICE, albeit a minimum of DKK 100, cf. Section 9.5. The fee for preparation of returns is DKK 140 per commenced ½ working hour.
- 13.9 Any return fees from the supplier are added to SPECIAL ORDERS/ORDER ONLY ITEMS. SPECIAL ORDERS/ORDER ONLY ITEMS can only be returned on the condition that AO's supplier accepts that the items are returned to them. A credit note is only issued when AO's supplier has credited AO for the purchase.
- 13.10 Items, except for SPECIAL ORDERS/ORDER ONLY ITEMS, cf. Section 4.1, that are returned to one of AO's stores at the latest eight business days after delivery/retrieval, will not be charged a return fee.
- 13.11 For AO's retrieval of return items and/or return packaging with the customer or third party, a retrieval fee of DKK 199 will be charged, in addition to any return fee, cf. Section 13.7.
- 13.12 If the return items do not fulfil the return rules in Section 9.1 and the customer wants them returned, a shipping fee of DKK 199 is added.
- 13.13 Invoice fees  
For printing, sending or reprinting of invoices, a fee of DKK 39 per invoice is charged.
- 13.14 Staffing fees  
For deliveries of items outside of ordinary business hours, a staffing fee of DKK 1,600 is charged.

## 14 Registration and processing of personal data

- 14.1 AO processes personal data in accordance with AO's applicable privacy policy, which is available at: <https://ao.dk/privacy>. Here customers can read more about inter alia the purposes of the processing, what data AO processes and the applicable legal authority.
- 14.2 The privacy policy shall be considered part of the contractual basis between AO and the customer. If AO processes personal data beyond what is necessary to provide services relating to sales and delivery, AO will ask for consent to do so, cf. the privacy policy.
- 14.3 AO uses video surveillance in all stores, in storage areas and in areas where items are received and shipped. The recordings are solely used as documentation if there is suspicion of theft, vandalism, accidents, or misdeliveries etc., and are stored for 30 days, after which they are deleted.

## 15 Governing law and legal venue

- 15.1 Any disagreements between the parties shall be decided in accordance with Danish law and according to these general terms and conditions of sales and deliveries.
- 15.2 All disputes, cf. Section 11, that cannot be resolved amicably, shall be decided with the City Court of Copenhagen as legal venue and subject to referral to another competent court pursuant to the rules in the Danish Administration of Justice Act.