

## TERMS AND CONDITIONS OF SALE AND DELIVERY

These terms and conditions shall apply for ENGSKO A/S (hereinafter referred to as ENGSKO). Within Denmark, Sweden, Norway and Finland, the basis of our terms and conditions of sale and delivery is NLM 94 and NL 92, that apply to the extent the terms and conditions have not been deviated from by the below provisions: The basis of our terms and conditions of sale and delivery outside Denmark, Sweden, Norway and Finland is: ORGALIME S2000, S2000S and SE01, that apply to the extent the terms and conditions have not been deviated from by the below provisions:

### **SPECIAL CONDITIONS:**

#### **Drawings and descriptions**

Any information about weight, dimensions, capacity, technical and any other data stated in catalogues, leaflets, circulars, advertisements, photos, dimension sketches and price lists is approximate and without any obligation on the part of ENGSKO. At the execution of the order, ENGSKO reserves the right to make changes that ENGSKO at any time may consider technically necessary.

#### **Offer**

Offers are made subject to alteration and subject to the products being unsold. ENGSKO shall reserve the right to alter or revoke outstanding offers without notice.

#### **Order confirmation**

Any order, including hereunder orders based on offers made by ENGSKO, shall be confirmed in writing by ENGSKO before a binding agreement of delivery shall have been concluded.

#### **Prices**

All prices are current prices in the currency stated. ENGSKO shall be entitled to alter its prices if changes occur in the supply of materials, raw material prices, wages, exchange rates or any other conditions beyond the control of ENGSKO, including hereunder customs duties, freight and insurance rates, etc.

#### **Payment**

Payment for supplies shall be effected as according to the order confirmation, or in the absence of same, according to the terms and conditions of payment printed on the invoice. The buyer shall not be entitled to retain payment due to any counterclaims. At payment later than on the above-mentioned date of payment, a penalty interest rate of 14% p.a. above the official Danish discount rate applying at any one time shall accrue as from the due date and until payment is effected. Upon forwarding reminder letters after the due date, a fee will be added to cover any such costs.

#### **Ownership reservation**

The products shall remain the property of ENGSKO until the purchase price has been paid in full.

#### **Insurance**

The buyer shall be obliged to have the products supplied fully insured at its utility value as from the time of delivery until payment has been effected.

#### **Cancellation**

Orders may only be cancelled as according to written agreement with ENGSKO and against payment of ENGSKO's accrued costs. Delivered products cannot be returned unless it has been specifically agreed with ENGSKO and in which case a deduction of at least 10% of the value of the returned products must be made as return charges.

#### **Delivery**

Delivery is effected Ex Works (EXW). ENGSKO shall not be responsible if the time of delivery shall be changed or delayed due to industrial disputes or any other circumstances beyond the control of ENGSKO, such as fire, war, currency restrictions, lack of means of transportation, general shortage of products, etc.

#### **Default of the buyer**

If the buyer does not observe the agreed conditions regarding the payment of the purchase price or the receipt of products, ENGSKO shall not be committed to supply the products and ENGSKO shall then be entitled to cancel confirmed orders and claim damages.

#### **Complaints/Inspection**

The buyer shall, as soon as possible, carry out a reasonable inspection of the products supplied and not later than two weeks later having forwarded a written complaint to ENGSKO. The buyer shall not have the right to claim defects that could have been found at such an inspection.

#### **Liability for defects**

ENGSKO shall be obliged to remedy any defect due to design, manufacturing or use of faulty material, provided that the defect shall be detected within a year as from the day on which the delivery is notified to be ready for dispatch from ENGSKO. Where the nature of the defect is such that in the opinion of ENGSKO it would not be appropriate to carry out repairs at the site of the installation or where ENGSKO deems replacement delivery necessary, the buyer shall return the products/parts bought that are defective hence ENGSKO may repair or replace the parts or undertake replacement deliveries.

Transportation of defective parts to ENGSKO shall be at the buyer's own risk and expense, whereas transportation of the repaired or new parts from ENGSKO to the buyer shall be at ENGSKO's risk and expense. Replaced defective parts shall be the property of ENGSKO. ENGSKO's liability shall not include defects arising from material delivered by the buyer or from an independent third party or from a design ordered by the buyer. ENGSKO's liability shall include only defects arising under the terms of function assumed in the agreement and by the correct use hereof.

The liability shall not include defects arising out of defective maintenance or incorrect installation by the buyer, changes made without the written consent of ENGSKO, faulty repairs carried out – according to written consent of ENGSKO – by the buyer or ordinary wear and tear or deterioration. ENGSKO shall be entitled to remedy any defect whether the defect is remedied before or after delivery.

#### **Product liability**

ENGSKO shall not assume any product liability of any kind. ENGSKO shall not be responsible for damage to real and personal property occurring while the supply in question is in the buyer's possession. Neither shall ENGSKO be responsible for damage to products manufactured by the buyer or to products where these form part.

In relation to product liability in other respects reference is made to NL 92/NLM 94 (outside Denmark, Sweden, Norway and Finland: ORGALIME S2000, S2000S and SE01) including any limitations as stated in these conditions. To the extent ENGSKO may be imposed product liability towards third party, the buyer shall be obliged to indemnify ENGSKO to the same extent as ENGSKO's liability shall be limited as according to the four preceding paragraphs.

If any third party puts forward a claim towards one of the parties for compensation as according to this paragraph, this party shall immediately without delay inform the other party.

ENGSKO and the buyer shall be mutually obliged to let actions be brought against them at the court dealing with any such claims for damages raised against one of them on the basis of the damage claimed to have been made to the products delivered. Any disputes between the buyer and seller should, however, always be settled by arbitration.

#### **Consequential loss etc.**

In relation to claims raised against ENGSKO in the form of liquidated damages reference shall be made to NL 92/NLM 94 (outside Denmark, Sweden, Norway and Finland: ORGALIME S2000, S2000S and SE01) in which it is stated that ENGSKO shall only be liable for any such claims in special circumstances and if so only by a maximum amount specified.

**ENGSKO shall in relation to defects in the products supplied, delay, in product liability cases and in any other case not assume any liability for loss of production, loss of time, loss of profit, consequential loss or any other indirect loss whatsoever.**

**Should ENGSKO by arbitration or by any other court or tribunal have such liability incurred, the liability of ENGSKO shall never be in excess of DKK 1,000,000.00 per claim.**

#### **Installation**

Installation is not included in the offer of ENGSKO unless otherwise expressly stated. The same applies to any construction work, foundation and electrical installations. If ENGSKO workers are detained at the site of installation for reasons that cannot be ascribed to ENGSKO, the ensuing costs shall be defrayed by the buyer.

#### **Arbitration**

Any dispute arising out of and related to this agreement cannot be tried at the courts but shall be settled by the Danish arbitration tribunal as according to the legislation and rules applying for arbitration proceedings in Denmark. Any dispute arising out of this agreement shall be settled under Danish law. Danish shall be the procedural language.