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J.NR. 061269-110-KRJ-CCH

## **TERMS OF SALE AND DELIVERY FOR HVALPSUND NET A/S**

### **1. APPLICATION**

- 1.1. These terms of sale and delivery shall apply to all agreements between Hvalpsund Net A/S (hereinafter referred to as "Hvalpsund Net") regarding deliveries from Hvalpsund Net of products (the "*Products*") to the Buyer. These terms of sale and delivery shall apply to the extent that they are not specifically dispensed with in writing by Hvalpsund Net.
- 1.2. Any purchasing terms or similar of the Buyer shall not be binding on Hvalpsund Net.

### **2. OFFER AND ORDER CONFIRMATION**

- 2.1. Any offer from Hvalpsund Net shall only be binding within the period stated in the offer. Unless otherwise stated, the offer shall lapse 30 days after it has been made.
- 2.2. All orders and changes of agreements shall be accepted by Hvalpsund Net in writing.
- 2.3. Deliveries offered by Hvalpsund Net ex stock are subject to the Products being unsold.

### **3. DRAWINGS AND DESCRIPTIONS**

- 3.1. Drawings, proposals and descriptions shall be the property of Hvalpsund Net and shall be covered by Hvalpsund Net's intellectual property rights and shall therefore not be transferred, copied or used by the Buyer without written permission.

#### **4. PRICE AND TERMS OF PAYMENT**

- 4.1. The price of the Products appears from the order confirmation. Unless otherwise stated, prices in offers, order confirmations and contracts are exclusive of VAT, freight, duties, taxes, packing and mounting.
- 4.2. Payment terms are PREPAYMENT unless otherwise has been agreed.
- 4.3. If the Buyer does not pay on time, Hvalpsund Net shall be entitled to calculate a 2% interest for each month or fraction thereof from the due date. Any payments shall first of all be used to cover such interest.
- 4.4. Hvalpsund Net reserves the right to adjust its prices in case of material changes in exchange rates, prices of materials, production costs, labour costs, transport costs, customs duties and government intervention or other circumstances beyond the control of Hvalpsund Net.

#### **5. RETENTION OF TITLE**

- 5.1. The Products sold shall remain the property of Hvalpsund Net until the entire purchase price has been paid.

#### **6. DELIVERY**

- 6.1. Hvalpsund Net's delivery is made EX WORKS (INCOTERMS 2010). This shall apply whether or not Hvalpsund Net by the use of its own men or by the use of a third party delivers the Products to the Buyer according to specific agreement with the Buyer.
- 6.2. If delivery does not take place within the time of delivery agreed upon the Buyer is only entitled – by written notice to Hvalpsund Net – to demand for delivery and to set a final reasonable time limit for the delivery and thereby state that the Buyers intends to annul the agreement, if delivery does not take place within the set time limit. If delivery does not take place within the thus set time limit, the Buyer is entitled to annul the agreement by written notice to Hvalpsund Net.
- 6.3. If the Buyer annuls the agreement according to clause 6.2. the Buyer is only entitled to claim damages. The damages may not supersede the extra costs, which have been imposed on the Buyer by the purchase of similar deliveries from another seller.

#### **7. DEFECTS**

- 7.1. Upon receipt of the Products at their destination, the Buyer shall perform an immediate and careful inspection of the Products. Does the Buyer not perform such inspection and consequently fails to give notice about a defect that would

or ought to have been detected, the Products shall be considered to be in accordance with the agreed and the Buyer shall be deemed to have accepted the Products accordingly.

- 7.2. Hvalpsund Net shall receive any complaints no less than two (2) weeks after the receipt of the Products by the Buyer.
- 7.3. The complaint shall be in writing, and the complaint shall not exempt the Buyer from observing the terms of payment.
- 7.4. When Hvalpsund Net has received sufficient information from the Buyer about a defect, Hvalpsund Net shall, if the terms of payment are observed, as the only remedy, repair or replace the defective parts or Products. If the defect is remedied the Buyer has no further remedies.
- 7.5. If remedy or supply of substitute Products does not take place within reasonable time according to clause 7.4. the Buyer is – in observance of ordinary Danish legislation and these terms of sale and delivery - entitled to annul the agreement, to claim a reduction of the purchase price or to claim damages with the limitations, which are a consequence of clause 8.
- 7.6. The Buyer shall plead any defects at its latest 12 months after delivery, as the Buyer after this time loses the right to plead defects. For parts or deliveries, which have been replaced or remedied, cf. clause 7.4., Hvalpsund Net undertakes the same obligations, which are valid for the Products originally sold for a period of 12 months, however Hvalpsund Net's responsibility for defects may not be extended for more than 18 months from the original time of delivery.

## **8. LIMITATION OF LIABILITY**

- 8.1. Maximum amounts: A claim for compensation or proportionate reductions towards Hvalpsund Net may not exceed the purchase price for the sold Products, cf. however clause 6.3.
- 8.2. Consequential damages: Hvalpsund Net is not liable for the Buyer's or the Buyer's customers' indirect losses and consequential damages of any kind whatsoever, including claims for compensation, day fines or agreed penalties, which the Buyer may become liable to pay to third party and furthermore, Hvalpsund Net is not liable for the Buyer's or the Buyer's customers' operating loss, loss of time, loss of deliveries or similar losses.
- 8.3. Specifications: Hvalpsund Net disclaims any liability regarding differences between the sold Products and information in Hvalpsund Net's marketing material, such as catalogues and brochures.
- 8.4. Force majeure: Hvalpsund Net is not liable for defects or delayed fulfilment of agreements, which are caused by force majeure, and the Buyer may not claim

compensation, annul the purchase or claim other remedies in that connection. Force majeure is defined as any obstacle, which Hvalpsund Net could not or ought not to have taken into consideration when entering into the agreement, or which prevents Hvalpsund Net's fulfilment of the agreement or which makes the fulfilment of the agreement unreasonably burdensome on Hvalpsund Net, such as war, riots, civil riots, interventions from the government or interventions from public authorities, fires, strikes, lockouts, export or import bans, mobilization, vandalism, currency restrictions delays and/or lack of deliveries from sub suppliers or any other cause, which is beyond Hvalpsund Net's control. If force majeure causes that delivery is postponed for more than 6 months, Hvalpsund Net is entitled to annul the agreement free from responsibility.

- 8.5. Guidance: To his best ability and conviction Hvalpsund Net will advise the Buyer with regard to choice of Products, the functions of these and their suitability for specific purposes. Such technical advice or support, which is given without specific agreement and without specific payment, does not impose any responsibility or obligations on Hvalpsund Net. Hvalpsund Net is only liable for such advice or support to the extent Hvalpsund Net has given specific written advice to the Buyer such as the drawing up of a project in writing, calculations, technical solutions or separate written statement on the suitability to a purpose specifically stated by the Buyer. Hvalpsund Net is not liable if the statements from Hvalpsund Net are based on wrong information from the Buyer or any third party, or if Hvalpsund Net's statements are based on an estimated judgment or assessment.
- 8.6. The Buyer's conditions: Hvalpsund Net is not liable if a postponement of the time of delivery is caused by (i) changes of the order, which are demanded by the Buyer or (ii) delay of deliveries or work output, which the Buyer carries out himself or have carried out by third party. In these situations Hvalpsund Net reserves the right to make adjustments of the agreed purchase price in accordance with the costs, which have occurred with Hvalpsund Net plus usual profit.

## **9. PRODUCT LIABILITY**

- 9.1. Hvalpsund Net is liable for personal injury under the Danish Product Liability Act (no. 371, June 7, 1989).
- 9.2. Hvalpsund Net shall only be liable for damage to property or real estate belonging to the Buyer if the damage was due to gross negligence or deliberate actions or omissions committed by a person, for whom Hvalpsund Net is liable.
- 9.3. Hvalpsund Net shall not be liable to pay compensation for any indirect or consequential loss, including but not limited to operating loss, loss of profit and loss of time because of product liability damage.

9.4. Where Hvalpsund Net is held liable for defective products *vis-à-vis* a third party, the Buyer shall indemnify Hvalpsund Net to the extent to which Hvalpsund Net has limited its liability towards the Buyer pursuant to the abovementioned.

**10. VENUE AND GOVERNING LAW**

10.1. Any dispute with relation to Hvalpsund Net's supply shall be decided at Hvalpsund Net's legal venue in Denmark.

10.2. The dispute shall be settled in accordance with the substantive laws of Denmark, i.e. disregarding its rules on renvoi, and except for the international sale of goods act (United Nations Convention of Contracts for the International Sale of Goods (CISG)).

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