

Foxway Distribution Trading Terms

Condition of Sale and Delivery

Updated September 2022

1. Validity

- 1.1. The conditions of sale and delivery apply to all offers, sales and deliveries unless otherwise agreed in writing.
- 1.2. The purchaser's general conditions of purchase, regardless of whether these are an integral part of the purchaser's purchase documentation, including acceptance, are not applicable. This applies regardless of when these are issued.

2. Offer and order confirmations/invoices

- 2.1. A final agreement is only signed upon the purchaser's receipt of a written order confirmation from Foxway Distribution, expressly named as such, or an invoice. Only the content of these is binding for Foxway Distribution. In addition, catalogues, brochures, price lists etc. and information regarding the product's dimensions, weight and particular characteristics should be obtained by the purchaser prior to ordering the product. Such information is only intended as a guide and is only binding for Foxway Distribution if this is expressly stated in the order confirmation or invoice. Foxway Distribution accepts no liability for any errors or information in written materials prepared by suppliers and distributed regarding products. This applies to any form of sales material, description, user instructions etc.

3. Prices

- 3.1. All sales shall be based on the agreed prices in accordance with the sales confirmation or invoice.
- 3.2. The prices are ex Foxway Distribution's warehouse unless otherwise agreed in writing. All prices are exclusive of VAT, freight, duty, tax and other charges unless otherwise indicated.
- 3.3. If the prices quoted for the delivery change due to changes in purchase prices, exchange rates or similar, Foxway Distribution is entitled to change the prices quoted to the purchaser. Foxway Distribution is not bound by any indicated freight rates.
- 3.4. Changes in official charges of any kind, including import and export charges, duties and taxes which occur after Foxway Distribution's order confirmation are irrelevant to Foxway Distribution and shall be borne by the purchaser.
- 3.5. The purchaser shall pay expenses to the carrier.

4. Payment

- 4.1. Payment shall be made at the latest on the date indicated by the order confirmation or invoice as the last date for payment to be received on time.
- 4.2. If a due date is not indicated, payment shall be in cash on the invoice date.
- 4.3. In the case of continuous supplies, Foxway Distribution is entitled to invoice the purchaser on account monthly in arrears. The invoice shall refer to the agreement between the parties.

- 4.4. If delivery is postponed due to the purchaser's situation, the purchaser – unless Foxway Distribution informs the purchaser otherwise in writing – is still obliged to make payment to Foxway Distribution as though a delivery had taken place at the agreed time.
- 4.5. If payment is made after the due date, Foxway Distribution is entitled to calculate interest on the amount outstanding at any given time starting from the due date at a rate of 2% for each month or part thereof.
- 4.6. The purchaser is not entitled to offset payment against any counterclaim against Foxway Distribution which is not confirmed by Foxway Distribution in writing, nor is the purchaser entitled to withhold any part of the purchase amount due to counterclaims of any kind.
- 4.7. Discounts of any kind are offered only on condition of payment being made on time.
- 4.8. Non-compliance with Foxway Distribution's payment conditions shall be regarded as a substantial breach of contract which entitles Foxway Distribution to halt further deliveries and to require that any debt, outstanding or not, is paid immediately.

5. Retention of title

- 5.1. Foxway Distribution reserves the right of ownership in every respect for the goods supplied. The goods supplied thus remain the property of Foxway Distribution until the full purchase amount, any expenses incurred and all other claims in relation to the commercial relationship have been paid by the purchaser.

6. Delivery

- 6.1. Delivery shall be deemed to have occurred upon transfer of the goods to the initial carrier with a view to the goods being forwarded to the purchaser or, if the purchaser itself has elected to collect the goods, when the goods are made available to the purchaser at Foxway Distribution's place of business/warehouse.
- 6.2. The delivery date indicated on the invoice is binding for Foxway Distribution, unless subsequently agreed otherwise. Unless otherwise agreed in writing, postponement of the delivery date by up to 15 working days is regarded as delivery being made on time in every respect, and based on the latter the purchaser cannot exercise any rights over Foxway Distribution. Foxway Distribution shall inform the purchaser about changes to the delivery date without unfounded delay.
- 6.3. If the parties have come to an agreement regarding delivery to the purchaser's premises, the product shall be provided to the purchaser for the latter to unload.
- 6.4. The purchaser is obliged to check the goods upon receipt and to make available the necessary manpower for unloading.
- 6.5. Expenses in connection with any waiting time prior to unloading at the purchaser's premises or any other delivery location specified by the purchaser shall be charged to the purchaser; similarly, the purchaser must cover expenses arising out of not being able to accept the goods at the agreed delivery time.
- 6.6. If delivery is delayed due to Foxway Distribution being in a situation indicated in Section 9, the delivery time shall be postponed by the period of the restriction; however, both parties shall be entitled to terminate the agreement without liability if the restriction has lasted for more than 2 months. This provision applies regardless of whether the cause of the delay occurred before or after expiry of the agreed delivery time.
- 6.7. In such cases, Foxway Distribution shall immediately inform the purchaser of the change to the delivery date.

7. Delay

- 7.1. Foxway Distribution is not liable for delays, and the purchaser therefore has no entitlement to reimbursement or compensation of any kind as a consequence of delays. Foxway Distribution's exemption from liability applies to any loss, both direct and indirect, including operating losses, lost profits and other financial consequential losses.

8. Transfer of risk

- 8.1. The risk for the purchased goods transfers to the purchaser when the goods are handed over for dispatch by Foxway Distribution/the supplier to independent carriers, or when the goods are made available to the purchaser at Foxway Distribution's place of business/warehouse. In the event that Foxway Distribution is unable to carry out a delivery due to the purchaser's situation, the risk for goods also transfers to the purchaser when notification of the situation in question is received by Foxway Distribution, and the goods are made available to the purchaser.

9. Force majeure

- 9.1. Foxway Distribution is not liable for non-fulfilment of Foxway Distribution's obligations and nor is it liable to compensate the purchaser for losses which are due to circumstances of an unusual nature and which prevent, make difficult or make more expensive compliance with the agreement, and lie outside the control of Foxway Distribution, including industrial disputes (strikes and lockouts), fire, war, uprising, domestic unrest, weather and natural catastrophes, official seizure, import or export bans, interruption of general communications, including energy supplies, substantial price and/or tax increases, currency fluctuations, production and supply difficulties.
- 9.2. The force majeure clause in Section 9.1. is valid whether the impediments to compliance affect Foxway Distribution itself or a subsupplier or carrier appointed by Foxway Distribution.

10. Defects and complaints

- 10.1. Upon delivery, the purchaser shall immediately – and before commissioning – carry out a qualitative and quantitative inspection of the goods sold, as required by standard business practice.
- 10.2. If the purchaser wishes to report a qualitative or quantitative defect, the purchaser shall immediately, and within 5 working days of the defect having been discovered, or should have been discovered - however no later than 6 months from delivery as the ultimate warranty period - notify Foxway Distribution in writing, indicating the nature of the defect. If the purchaser has, or should have, discovered, defects and the purchaser does not register a complaint in accordance with the procedure indicated above, the purchaser cannot subsequently assert the existence of the defect. Making alterations or carrying out measures on the goods sold without the consent of Foxway Distribution releases Foxway Distribution from any liability and obligation.
- 10.3. Should it appear that the goods delivered are defective and Foxway Distribution is liable for this, Foxway Distribution itself undertakes either to adjust, repair or provide a replacement delivery (the course of action to be decided by Foxway Distribution) within a

reasonable period of time. This is always subject to the complaint having been made on time.

- 10.4. The purchaser shall comply with Foxway Distribution's instructions and method of dispatch.
- 10.5. Foxway Distribution does not accept any liability for losses in the event of defects exceeding those indicated in section 10.3. The purchaser is not entitled therefore to any reimbursement or compensation of any kind in the event of defects. Foxway Distribution's exemption from liability applies to any loss, both direct and indirect, including operating losses, lost profits and other financial consequential losses.
- 10.6. The purchaser undertakes to complain in writing to the carrier immediately after receipt regarding any transport damage. If it was not possible to discover the damage at the time of delivery, then a complaint must be submitted as soon as possible and within 5 days at the latest.
- 10.7. If there are defects in some of the goods delivered by Foxway Distribution, the purchaser is only entitled to claim remedy for breach of contract for those goods affected. The purchaser is thus obliged to comply with the agreement with Foxway Distribution as far as the non-defective part of the delivery is concerned, including paying the purchase amount, and non-compliance with this on the part of the purchaser shall be regarded as a substantial breach of contract which entitles Foxway Distribution to claim remedy for breach of contract.
- 10.8. Foxway Distribution's liability for defects only covers those defects which become apparent within a year from the day on which the goods were delivered.
- 10.9. If the purchaser has submitted a complaint in accordance with Section 10.2., and it transpires that no defects exist for which Foxway Distribution bears responsibility, Foxway Distribution is entitled to reimbursement for the work and the expenses the complaint has given rise to for Foxway Distribution.
- 10.10. Foxway Distribution does not accept any liability for losses exceeding those indicated in section 10.3 in relation to the services which Foxway Distribution's consultants must provide to the customer, including implementation of hardware and software. The purchaser is not entitled therefore to any reimbursement or compensation of any kind as a result of these services. Foxway Distribution's exemption from liability applies to any loss, both direct and indirect, including operating losses, lost profits and other financial consequential losses. Furthermore, Foxway Distribution is not liable for any loss by the purchaser of data as a result of breakdown or similar, nor is Foxway Distribution liable for the purchaser's other IT equipment, such as hardware, software, networks, firewalls, etc.
- 10.11. It is the full responsibility of the purchaser to delete all personal data as defined in Regulation (EU) 2016/679 before any goods sold are returned to Foxway Distribution for diagnosis, adjustments, repair or redelivery.

11. Cancelling and changing orders

- 11.1. The purchaser may only cancel or change an order, including changing specifications, quantities and delivery dates, with the written agreement of Foxway Distribution on each occasion.
- 11.2. Costs connected with a cancellation or changes shall be covered in full by the purchaser.

12. Returns

- 12.1. Goods can only be returned to Foxway Distribution after prior agreement on each occasion. In all cases, a request from the purchaser to return goods shall be notified to Foxway Distribution at the latest 5 working days after receipt of the goods.
- 12.2. If an agreement regarding the return of goods is concluded, the purchaser shall pay all costs in connection with returning the goods, likewise the risk for the goods remains with the purchaser until Foxway Distribution has confirmed to the purchaser that the returned goods have been received free of defects.
- 12.3. Returns must be unused, free of defects, and in the original unopened packaging. There must be no dirt on the goods. Payment for returns shall be agreed in writing on each individual occasion.
- 12.4. Returns shall be sent back in accordance with instructions from Foxway Distribution. If not, Foxway Distribution reserves the right to charge a return fee equal to the loss in value plus handling costs for the goods.
- 12.5. Goods can only be returned if the applicable RMA form, drafted by Foxway Distribution, is completed.
- 12.6. It is the full responsibility of the purchaser to delete all personal data as defined in Regulation (EU) 2016/679 before any return goods – regardless of the reason hereto – after agreement is returned to Foxway Distribution for diagnosis, adjustments, repair or redelivery. This can only be deviated from by explicit written agreement in case of as example Foxway Distribution as part of as example purchase of used equipment takes on the responsibility for and work with deletion of personal data and other data on such equipment.

13. Warranty

- 13.1. Foxway Distribution does not provide a separate warranty on the supply of goods. The warranty in the purchase agreement, or a manufacturer's warranty for a product provided in another way, is only to be regarded as an extension of the manufacturer's guarantee so no claim can be made to Foxway Distribution under the warranty declaration in question.
- 13.2. The warranty is only valid if the conditions of the warranty declaration are fulfilled and the instructions for assembly and use have been followed.

14. Product liability

- 14.1. Foxway Distribution's product liability is limited, as indicated in the following provisions, unless Danish legislation clearly stipulates otherwise.
- 14.2. Foxway Distribution's product liability is limited to covering personal injury and is restricted to cases where the purchaser establishes that the injury occurred as a result of Foxway Distribution's gross negligence.
- 14.3. Foxway Distribution is thus not liable for damage to the purchaser's movables or real property, likewise Foxway Distribution is not liable for damage to products manufactured by the purchaser or where the goods supplied by Foxway Distribution have been inserted.
- 14.4. On no account is Foxway Distribution liable for the purchaser's or a third party's direct or indirect losses, including operating losses, lost profits and other financial consequential losses.
- 14.5. If Foxway Distribution becomes liable under a separate product liability to a third party concerning goods which Foxway Distribution has supplied to the purchaser, the purchaser

is obliged to indemnify Foxway Distribution to the same extent as Foxway Distribution's liability is limited to the purchaser in line with this agreement.

- 14.6. Any non-statutory product liability which has evolved under Danish case law is thus expressly renounced.
- 14.7. Foxway Distribution's separate damages as liability for losses can never exceed DKK 5,000,000.00.

15. Venue and choice of law

- 15.1. Disputes between the parties shall be settled using Danish law. It is expressly noted that the International Sale of Goods Act does not apply to the relationship between Foxway Distribution and the purchaser.
- 15.2. All cases shall be settled by the general courts in the jurisdiction where Foxway Distribution has its Danish registered office.
- 15.3. However, Foxway Distribution is entitled to choose to have the case dealt with by arbitration in accordance with the laws regarding arbitration in Denmark valid at any given time.

(Below is an additional term concerning German trade only)

16. Vereinbarung über Eigentumsvorbehalt

- 16.1. Die gelieferte Ware bleibt bis zur vollständigen Bezahlung sämtlicher Forderungen aus der Geschäftsverbindung zwischen uns und dem Besteller unser Eigentum (Vorbehaltsware).
- 16.2. Der Besteller ist berechtigt, die Vorbehaltsware zu veräußern oder anderweitig darüber zu verfügen, sofern dies in seinem Betrieb zu den normalen Geschäften gehört. Eine Verpfändung, Sicherheitsübereignung oder Sicherungsabtretung ist ihm nicht gestattet. Der Besteller ist verpflichtet, unsere Rechte als Vorbehaltseigentümer beim Weiterverkauf von Vorbehaltsware auf Kredit zu sichern. Die dem Besteller aus der Weiterveräußerung oder sonstigen Verfügung über die Vorbehaltsware entstehende Forderung tritt der Besteller schon jetzt an uns ab, wir nehmen die Abtretung schon jetzt an.
- 16.3. Eine etwaige Be- und Verarbeitung der Vorbehaltsware nimmt der Besteller für uns vor, ohne dass für uns daraus Verpflichtungen entstehen. Bei Verarbeitung, Verbindung, Vermischung oder Vermengung der Vorbehaltsware mit anderen, nicht uns gehörenden Waren steht uns der dabei entstehende Miteigentumsanteil an der neuen Sache im Verhältnis des Rechnungswertes der Vorbehaltsware zu den übrigen Waren zu. Erwirbt der Besteller Alleineigentum an der neuen Sache, räumt er uns das Miteigentum ein und verwahrt die Sache unentgeltlich für uns. Wird die Vorbehaltsware zusammen mit Vorbehaltswaren anderer Lieferanten weiterveräußert, und zwar gleich, ob ohne oder nach Verarbeitung, Verbindung, Vermischung oder Vermengung, so gilt die oben vereinbarte Vorausabtretung nur in Höhe des Rechnungswertes unserer Vorbehaltsware, die zusammen mit den anderen Vorbehaltswaren weiterveräußert wird.
- 16.4. Zur Sicherung unserer Forderungen gegen den Besteller tritt uns der Besteller auch solche Forderungen ab, die ihm durch die Verbundung des Liefergegenstandes mit einem Grundstück gegen einen Dritten erwachsen; wir nehmen diese Abtretung schon jetzt an.
- 16.5. Bei Zahlungsrückstand oder anderem vertragswidrigen Verhalten des Bestellers sind wir auch ohne vorherige Fristsetzung berechtigt, von dem Vertrag zurückzutreten und die

Vorbehaltsware zurückzunehmen; der Besteller ist zur Herausgabe verpflichtet. Zwecks Zurücknahme der Ware gestattet uns der Besteller unwiderruflich, seine Geschäfts- und Lagerräume ungehindert zu betreten und die Vorbehaltsware mitzunehmen. In einer solchen Zurücknahme der Vorbehaltsware liegt kein Rücktritt vom Vertrag, es sei denn, wir erklären dies schriftlich.

- 16.6. Der Besteller ist verpflichtet, die gelieferte Vorbehaltsware auf seine Kosten gegen Feuer, Einbruch, Diebstahl und Wasserschäden versichern zu lassen.