

# Terms and Conditions of Sale and Delivery for Créadore A/S

In the absence of any other written contract, Créadore A/S, incorporated in Denmark as a Public Limited Company under Danish central business registration number 31 60 57 41, (hereinafter referred to as "Créadore") shall supply all deliveries subject to the following terms and conditions, notwithstanding any provisions contrary to or deviating from those contained in the order placed by the Buyer or the letter of acceptance.

## 1. Offers, orders and acceptance

Offers from Créadore shall be valid for two (2) weeks from the date of the offer, unless any other time limit is stipulated in the offer. However, Créadore reserves the right to prior sale.

A Buyer's orders, including acceptance of the offer from Créadore, are binding on Créadore only once the Buyer has received the order confirmation in writing.

## 2. Service provided by Créadore A/S

The service provided by Créadore shall include only those parts and goods specified in the order confirmation, and Créadore undertakes to supply goods of the customary high quality in terms of materials and manufacture under the present Terms and Conditions of Sale and Delivery, as well as under any further terms and conditions expressly agreed to in writing. The Buyer accepts a quantity tolerance of +/- 10% without this thereby constituting a non-conformity.

## 3. Product information and confidentiality

All drawings, sketches, designs, technical specifications, etc. remain the property of Créadore and must not be copied or transferred to any third party except where otherwise expressly agreed in writing.

The Buyer additionally undertakes to treat as confidential all circumstances relating to Créadore of which the Buyer gains knowledge as a result of the information exchanged in connection with the delivery.

The goods delivered must not be imitated or transferred to any third party with this purpose in mind.

## 4. Delivery

The place of delivery and the delivery clause are stipulated in Créadore's order confirmation. If the delivery clause is not stipulated in the order confirmation, the delivery clause is FOB (Incoterms 2020).

## 5. Retention of ownership

The following has been specifically agreed with regard to deliveries to Buyers resident in Germany:

- Every delivered item remains the property of Créadore until payment has been made.
- Delivered items remain the property of Créadore until all requirements pursuant to the business account are paid.
- The Buyer does not gain ownership of the manufactured products after delivered items have been processed. Processing is carried out free of charge for Créadore. If right of ownership must lapse anyway, the Buyer and Créadore have already agreed that the right of ownership is transferred to Créadore on processing, and Créadore accepts this transfer. The Buyer stores the manufactured product free of charge for Créadore. When items which still belong to a third party are processed, Créadore gains right of ownership to the new products. The scope of this right of ownership is determined by the relationship between the invoice value of the items delivered by Créadore and the invoice value of the other items.
- The Buyer thus transfers to Créadore its requirements pursuant to the resale of items covered by Créadore's right of ownership, even if the items have been processed, and Créadore accepts the transfer. If the processed product – in addition to the item delivered by Créadore – only contains items which belong to the Buyer or were delivered with so-called "simple reservation of right of ownership", the Buyer will transport the collected requirements pursuant to the resale to Créadore. In other cases, i.e. if the Buyer has provided transport to multiple suppliers, Créadore is due a share of the Buyer's requirements equivalent to the relationship between the value of the goods Créadore has delivered and the value of the other items that have been processed.
- At the Buyer's request, Créadore is obligated – at its own discretion – to release the securities due pursuant to the above conditions, to the extent that the realisable value of the securities exceeds the hedged debts by more than 20%.
- The agreement regarding retention of ownership is subject to German law.

The following has been specifically agreed with regard to deliveries to Buyers resident in other countries than Germany:

- Notwithstanding delivery and the transfer of risk, ownership and title to the goods shall remain with Créadore until Créadore has received payment of the full price for everything. Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of this and all other contracts between Créadore and the Buyer.

## 6. Prices

Prices are stipulated in the order confirmation from Créadore.

If any changes are made to the delivery, or if Créadore's costs increase in any other way due to circumstances attributable to the Buyer, Créadore is entitled to increase the price accordingly. Refer also to clause 8.

## 7. Terms of payment

Terms of payment are prepayment, unless otherwise agreed or shown in the order confirmation.

## 8. Delivery time

Delivery up to six (6) working days before or after the time stipulated for delivery in the order confirmation shall be deemed timely delivery for all purposes.

Créadore may demand postponement of the delivery time in the following cases:

- In the event of changes to the order in response to a request made by the Buyer;
- In the event of delays in deliveries or services performed by the Buyer itself or which the Buyer causes to be performed, or in the event of delays to approvals or drawings/specifications on the Buyer's part, or in the event of delays to the Buyer's compliance with other duties incumbent on it,
- In case of force majeure, cf. clause 14 of the present Terms and Conditions of Sale and Delivery; or
- In the event that work on the order has to be suspended or is delayed or changed as a result of orders issued by the public authorities;
- In the event that the Buyer has not complied with agreed payment terms and/or the Buyer has not issued appropriate guarantee of payment.

In respect of items a, b, d and e above, Créadore moreover reserves the right to adjust the agreed price.

## 9. Delays

If delivery of the goods or any part thereof is delayed, and if Créadore is not entitled to postpone the time of delivery (cf. clause 8), the Buyer must – if it wishes to claim a delay – specify a reasonable deadline for delivery in writing, which may not, however, be less than five (5) working days. If delivery still does not take place within the specified reasonable deadline, the Buyer is entitled to cancel the purchase with regard to that part of the delivery that is delayed, though not with regard to any future/previous deliveries, notwithstanding that these may have been covered by the same order confirmation.

If the delay relates to goods produced at the directions of the Buyer, or deliveries that are not normally stocked by Créadore, the Buyer is only entitled to cancel the purchase if the delay means that the Buyer's purpose for purchasing the goods has essentially been lost.

If the purchase is cancelled, the Buyer may claim compensation for the direct documentable loss suffered as a result of the delay – subject, however, to a maximum amount equivalent to 10% of the agreed price for the delayed part of the delivery. The Buyer cannot claim compensation for any form of indirect loss, cf. clause 13.

Other than as stipulated in this clause, Créadore shall not assume any liability for delays or the consequences thereof, and the Buyer may not claim any other remedy for breach of contract against Créadore in the event of the delay.

## 10. Breach of contract by the Buyer

If, after the delivery time has arrived, the Buyer fails to take receipt of the delivery, or if the Buyer gives an order to Créadore to delay the delivery, Créadore is entitled to demand payment for the delivery and to store and insure the delivery at the Buyer's expense.

If the Buyer thereafter fails to take receipt of the delivery despite being requested in writing to do so, Créadore is entitled to sell the items at the best possible price for the account of the Buyer – including in such cases where the goods have been manufactured in accordance with the Buyer's instructions or specifications. The Buyer must also compensate Créadore for an amount comprising the difference between the agreed price and the selling price to the third party, added to which shall be all of Créadore's other costs associated with the breach of contract by the Buyer.

## 11. Duty to give notice of defects and duty of examination

It is the duty of the Buyer to carry out a thorough examination of the delivery's conformance with the contract, including with respect to quantity, by no later than the time at which the Buyer takes receipt of the delivery.

The Buyer must immediately make a complaint over any non-conformities that may be ascertained during such an examination, and the Buyer cannot subsequently claim any non-conformities that could or should have been ascertained during such a thorough examination. The same shall also apply if the Buyer fails to complain immediately of any non-conformities ascertained at a later stage that it neither had nor should have ascertained at the time of delivery.

## 12. Product liability

Créadore shall only be liable for personal injury if it can be proved that such injury is due to errors or negligence on the part of Créadore or others for whom Créadore is responsible. Compensation for personal injury can in no instance exceed the level of damages applicable at any time under Danish law.

Créadore shall be liable for damage to real and personal property on the same terms and conditions as those that apply to personal injury – subject, however, to the proviso that compensation may never exceed USD 333.333 incl. interest and costs per damage case.

To the extent that Créadore might be held liable towards any third party for any damage or injury caused by the goods, the Buyer must hold Créadore harmless to the same extent as that to which the liability of Créadore is limited pursuant to these present Terms and Conditions of Sale and Delivery.

If any third party makes a claim regarding product liability against one of the parties pursuant to this clause, then such party must immediately notify the other thereof. The Buyer must defend any such action before the court that hears the claim for compensation brought against Créadore based on the injury or damage allegedly caused by the delivery.

## 13. Limitation of liability

Créadore shall in no event – neither in the event of product liability – be liable for any indirect damage or loss, such as operating loss, loss of time, loss of profits or any other similar loss.

## 14. Force majeure

Créadore shall not be liable for any non-performance or delays in performance of the contract due to force majeure, i.e. circumstances beyond the control of Créadore – including, but not limited to: war, riots, civil unrest, government intervention or intervention by the public authorities, fire, strike or lockout, export and/or import bans, missing or non-conforming deliveries by sub-contractors, shortage of labour, fuel or power, and that have the effect of delaying or preventing the manufacture and delivery of the goods sold.

If the delivery of conforming goods or timely delivery is prevented temporarily by one or more of the above-mentioned circumstances, the delivery time shall be postponed for a period equal to the delay caused by force majeure plus a reasonable period, according to the circumstances for normalising the situation. The delivery time postponed thus shall be deemed timely delivery for all purposes. If the hindrance to delivery is expected to last for more than four months, both Créadore and the Buyer are entitled to cancel the contract without this being deemed to constitute a breach of contract.

## 15. RFID transponders

1. If the Buyer wants the goods to be supplied with RFID-transponders, the Buyer has the following 3 options to choose from:

- 1.1. The Buyer can purchase the goods from Créadore with RFID-transponders mounted. Créadore does not check the RFID-transponders for usability, serviceability, faults, or defects, neither when receiving, mounting or delivering the goods supplied with RFID-transponders to the Buyer. Thus, Créadore cannot be held liable for the RFID-transponders, neither for their usability, serviceability, faults, or defects. Furthermore, Créadore is exempt from liability for damage of textiles caused by RFID-transponders' wear of the textile
- 1.2. The Buyer can at its own expense and risk arrange for the purchase and delivery on DDP terms, as defined in Incoterms 2020, of the agreed number of RFID-transponders to the address designated by Créadore for mounting. In this case, the following conditions apply:
  - a. The agreed number of RFID-transponders (and pouches if a pouch solution is demanded) must be delivered at the time agreed and in due time for the estimated delivery time for the finished goods to be met. If the Buyer's delivery of the RFID-transponders is delayed, the estimated delivery time for the goods will be postponed accordingly with no contractual liability for Créadore;

- b. If the Buyer delivers a greater number of RFID-transponders than agreed, it will be at the Buyer's expense and risk. Créadore will endeavour to stock any excess number of RFID-transponders for the Buyer but is not obliged to do so. The same applies in relation to the number of RFID-transponders, which are not used due to the quantity tolerance specified in these terms and conditions. If the Buyer delivers a fewer number of RFID-transponders than specified in the order confirmation, Créadore is free to determine in which goods the delivered RFID-transponders are to be mounted, while the remaining goods will be delivered to the Buyer without RFID-transponders;
- c. A certain loss of RFID-transponders must be expected due to rejection in the various textile quality control tests. Créadore will not be liable for any losses incurred as a result of such rejection and;
- d. Créadore does not check the RFID-transponders (nor the pouches if a pouch solution is chosen) for usability, serviceability, faults, or defects, neither when receiving, mounting or delivering the goods supplied with RFID-transponders to the Buyer. Thus, Créadore cannot be held liable for the RFID-transponders (nor the pouches if a pouch solution is chosen), neither for their usability, serviceability, faults, or defects. Furthermore, Créadore is exempt from liability for damage of textiles caused by RFID-transponders' wear of the textile.

1.3. At the Buyer's risk, Créadore can purchase RFID-transponders from RFID-suppliers designated by the Buyer, on the basis of an agreement on delivery of RFID-transponders concluded between the Buyer and one or more RFID-suppliers designated by the Buyer. The Buyer's RFID-suppliers will deliver the agreed number of RFID-transponders on DDP terms, as defined in Incoterms 2020, to the address designated by Créadore for mounting. The Buyer's RFID-suppliers will invoice Créadore for the delivered RFID-transponders under the agreement concluded between the Buyer and the RFID-suppliers. In this case, the following conditions apply:

- a. The agreed number of RFID-transponders must be delivered at the time agreed and in due time for the estimated delivery time for the finished goods to be met. If the RFID-supplier of the Buyer delivers the RFID-transponders with delay, the estimated delivery time for the goods will be postponed accordingly with no contractual liability for Créadore;
- b. In cases where Créadore is to stock RFID-transponders for the Buyer, an agreement with the Buyer must be in place concerning, among other things, the purchase/sales price, payment terms, financing, and min/max stock with an agreed stock turnover rate per year. Créadore reserves the right to invoice the Buyer for RFID-transponders that do not comply with the agreed stock turnover rate. The Buyer undertakes, on Créadore's written request, to purchase the RFID-transponders that Créadore has in stock that have not been sold within the agreed stock turnover rate;
- c. A certain loss of RFID-transponders must be expected due to rejection in the various textile quality control tests. Créadore will not be liable for any losses incurred as a result of such rejection and;
- d. Créadore does not check the RFID-transponders for usability, serviceability, faults, or defects, neither when receiving, mounting or delivering the goods supplied with RFID-transponders to the Buyer. Thus, Créadore cannot be held liable for the RFID-transponders, neither for their usability, serviceability, faults, or defects. Furthermore, Créadore is exempt from liability for damage of textiles caused by RFID-transponders' wear of the textile and;
- e. Créadore will not be liable for any costs incurred as a result of delayed deliveries of RFID-transponders by the Buyer's RFID-suppliers, including deliveries of reordered stock.

1.4. Whether the Buyer chooses option 1, 2 or 3 from above, the RFID-transponders are mounted in the goods at the location and according to the mounting method/instruction specified in the order confirmation. The default mounting method/instruction used is Créadore's mounting method/instruction. If the Buyer demands that another mounting method/instruction is used, the Buyer assumes the risk and liability related to the mounting of the RFID-transponders and Créadore is exempt from its liability related to the mounting method/instruction including its potential influence of the RFID-transponders usability and serviceability. If the Buyer is to deliver the mounting method/instruction and these are delayed, the estimated delivery time for the goods will be postponed accordingly with no contractual liability for Créadore.

- 1.5. If the Buyer proves that Créadore's mounting of the RFID-transponders did not follow the mounting method/instruction – whether this was Créadore's mounting method/instruction or the one of the Buyer – and that this is the cause of the RFID-transponders' inoperability/non-functionality, Créadore is obliged to compensate the Buyer for its resulting loss. However, Créadore is not liable for indirect damage or loss such as business interruption, loss of time, loss of profit, etc.
- 1.6. In addition to the above, Créadore's mounting method/instruction of RFID-transponders is subject to the other provisions of these Terms and Conditions of Sale and Delivery.

#### **16. Invalidity**

If one or more of the provisions of these Terms and Conditions of Sale and Delivery are known to be invalid, unlawful or unenforceable, this shall not as a result thereof affect or lessen the validity, legality or enforceability of any of the other provisions.

#### **17. Governing law and venue**

All disagreements between the parties must be resolved in accordance with Danish law, including the Danish Sale of Goods Act (Købeloven), with the exception of the Danish choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply, whether in whole or in part.

Any dispute between the parties must be resolved either by the ordinary courts of law in Denmark (initially with the court in Kolding as the court of first instance) or by arbitration at the sole option of Créadore.

In the event of arbitration, this must take place at the Danish Institute of Arbitration in accordance with the rules thereon adopted by the Danish Institute of Arbitration as they apply at the time of commencement of the arbitration case, subject to the changes indicated below.

The parties have agreed, however, that the arbitration tribunal shall consist of three members, each party to appoint one member and the Danish Institute of Arbitration to appoint the Chairperson of the arbitration tribunal. If a party has not appointed a member within fourteen (14) days of the Danish Institute of Arbitration's request to do so, the Danish Institute of Arbitration shall appoint the member on behalf of the party in question.

The arbitration tribunal shall be held in Kolding.

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