

General conditions of purchase, 01.09.08

1. GENERAL PROVISIONS

1.1. **Contract** shall mean the separate contract document, these General conditions of purchase and any appendices, agreed amendments or variations to said documents.

Deliverables shall mean all goods, services and documents, as appropriate, to be delivered by Seller pursuant to the Contract.

1.2 In the event of any conflict between the provisions of the Contract, the various contract documents shall be given priority in the following order:

- The separate contract document
- These General conditions of purchase
- Appendices in the order they are listed

1.3 Notices, claims, etc. which the Contract requires to be presented in writing, shall be sent by letter, fax or confirmed electronic mail to the other party's appointed representative.

2. GENERAL OBLIGATIONS OF SELLER

2.1 The Deliverables shall in all respect meet the specifications of the Contract, and shall in addition be of high quality and fit for its intended purpose.

2.2 The Deliverables shall be in compliance with applicable laws and regulations.

2.3 Seller shall not assign parts of the work related to the deliverables to subcontractors without Buyer's written consent. Such consent does not exonerate Seller from any obligations pursuant to the Contract.

2.4 Seller shall have a satisfactory system for HES assurance and quality assurance suitable for the Deliverable. Buyer is at any time entitled to carry out, and Seller shall assist in carrying out, inspections of the deliverables and audits at seller's or any subcontractors' premises.

2.5 If delivery has been agreed according to INCOTERMS, the version in force at the time the Contract was entered into shall apply.

2.6 Whenever requested by Buyer, Seller shall provide original insurance certificates as well as the conditions of any insurance policies he is obliged to provide according to the Contract.

3. INSTALLATION, TESTS

The provisions of this Art. 3 only apply if it has been agreed that the Deliverables shall include installation work and/or tests to be carried out at Buyer's premises.

3.1 Seller shall ensure that installation work and/or tests at buyer's premises are carried out in compliance with any rules in force relating to safety and working conditions. Buyer will, upon Seller's request, inform of its own rules.

3.2 Delivery occurs when the installation work and/or tests have been completed and Buyer has confirmed in writing that the Deliverables have been accepted. Such confirmation shall be given without undue delay.

3.3 Seller shall in due time before commencement of the installation work and/or tests provide a schedule for any goods and/or services which Buyer shall provide according to the Contract.

3.4 Unless otherwise agreed, the contract price to be paid for the deliverables includes costs of installation work and/or tests.

3.5 Unless otherwise agreed, Seller shall provide a liability insurance with a minimum coverage of NOK 3 millions per incident for damages caused on Buyer's or any third party's property or personnel in connection with installation work and/or in performance of tests at Buyer's premises.

4. PROGRESS, DELIVERY

4.1 Progress

If Seller should have cause to believe that he will be unable to meet the agreed delivery date, he shall immediately notify Buyer in writing stating the reason for the delay, the effect on the agreed delivery date and furthermore include a proposal on how the delay can be minimised. Seller shall bear own costs incurred to minimise the delay unless the delay is caused by Buyer.

Seller is liable for any losses suffered by Buyer which could have been avoided if Seller had given notice of the delay in due time.

4.2 Delivery

Unless otherwise agreed, delivery shall be deemed to have taken place when the deliverables have been handed over to Buyer and agreed installation work and tests have been passed and completed.

5. VARIATIONS, CANCELLATION

The provisions of this Art. 5.1 – 5.6 shall only apply to the extent the Deliverables are manufactured especially for Buyer and for work mentioned Article 3.

5.1 Within the scope of what the parties could reasonably have expected at the time the Contract was entered into, Buyer may require variations with regard to the quality and/or the quantity of the Deliverables as well as the delivery date.

5.2 If Seller finds a variation required, Buyer shall be notified, in writing, without delay.

5.3 Any variation shall be approved by Buyer by means of a written variation order before seller initiates the variation work.

5.4 When Buyer requires a variation, Seller shall, without undue delay, submit a written confirmation describing the variation work together with an estimate of any effects on the contract price and the work schedule.

5.5 Compensation for variation work shall be in accordance with the prices, norms and rates contained in the Contract, or otherwise in accordance with the original price level of the Contract. If a variation entails cost saving for Seller, Buyer shall be credited accordingly.

5.6 If the parties disagree as to the amount to be added to or deducted from the contract price or any other consequences due to a variation, Seller shall implement the variation without awaiting the final outcome of the dispute.

5.7 Buyer may cancel the Deliverables or parts thereof with immediate effect by written notification to seller. Following cancellation, buyer shall only pay documented and necessary expenses incurred as direct result of the cancellation.

6. PAYMENT

6.1 Unless otherwise agreed, payment shall be made within 30 days following the end of the month during which delivery took place. However, payment shall in no event be due until 30 days after Buyer's receipt of a correct invoice.

6.2 The contract number and other agreed references shall be quoted on all invoices, which shall also clearly indicate what the invoiced amount relates to. Buyer is entitled to return invoices that do not meet these requirements.

6.3 If it has been agreed that Seller shall provide a bank guarantee, Buyer shall not be obliged to make any payments prior to receipt of such guarantee.

6.4 Buyer is entitled to deduct any prepayments against Seller's invoices. Furthermore, any disputed or insufficiently documented amounts, as well as any amounts owed by Seller to Buyer may be set-off against Seller's invoices.

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7. BREACH OF CONTRACT

7.1 Delay

Delay exists when Seller fails to comply with the time limits stated in the Contract, unless the delay is caused by Buyer.

If the Deliverables have such defects that they are not suitable for their intended purpose, buyer may elect to treat this as delay.

Seller is liable for delay pursuant to article 7.2.

7.2 Effects of delay

Unless otherwise agreed, liquidated damages shall accrue at a rate of 0.3 % of the total contract price per day by which the agreed delivery date is delayed. Liquidated damages shall, however, not exceed 15 % of the total contract price.

If the delay is caused by gross negligence or wilful misconduct on the part of Seller or someone for whom he is responsible, Buyer may, instead of the liquidated damages claim compensation for the losses suffered due to the delay.

Buyer may terminate the Contract with immediate effect upon any delay. If the Deliverables are manufactured especially for Buyer, and Seller therefore is unable to dispose of the Deliverables without incurring considerable losses, Buyer may only terminate the Contract if the maximum of liquidated damages have accrued or the delay constitutes a substantial breach of Contract.

7.3 Defects

Seller is liable for any defect in the Deliverables pursuant to Art. 7.4.

Neither Buyer's inspection pursuant to Art. 2.4 nor the fact that Seller has sent drawings, goods or samples for Buyer's inspection limits Seller's responsibility for ensuring that the Deliverables are in compliance with the contractual requirements.

Buyer shall inspect the Deliverables within a reasonable time after delivery.

Buyer is under no obligation to inspect the Deliverables prior to arrival at its permanent destination. If Seller shall carry out installation work, the obligation to perform inspection does not arise until the Deliverables have been accepted pursuant to Article 3.2

Buyer's obligation to perform inspection of the Deliverables applies correspondingly where seller has performed rectification work.

Buyer shall issue a written notice of defect within reasonable time following discovery of any defect, and in no event later than 24 months after delivery. The same time limit applies in respect of any replaced or repaired parts, calculated from the time the replacement or repair took place. The time limit for making a notice of defect does not commence as long as rectification work or other activities necessary to comply with the contractual requirements are performed.

7.4 Liability for defects

When Buyer notifies Seller of a defect, Seller shall commence rectification of the defect without delay. The rectification work shall be postponed upon Buyer's request provided that Buyer has a justified reason for requiring such postponement. Rectification work shall be performed for Seller's account.

If Seller fails to remedy the defect within reasonable time, Buyer is entitled to remedy the defect himself or employ a third party to do so for Seller's risk and account, or to reduce the contract price accordingly. The same shall apply if awaiting Seller's remedy will cause substantial inconvenience to Buyer. In such event, Seller shall be notified in writing prior to initiating of the rectification work.

Buyer is entitled to claim compensation for any losses suffered due to defects. Such compensation is limited to cover direct losses unless seller or someone seller is responsible for has acted with gross negligence or wilful misconduct.

Buyer may terminate the Contract if defect constitutes a substantial breach of Contract. In such event, Buyer is entitled to reject Seller's offer to remedy the defects and/or substitute the Deliverables.

7.5 Indemnification

Seller shall indemnify Buyer if the Deliverables constitute an infringement of third party patent rights or other intellectual property rights, except when this is necessary due to Buyer's specifications and Seller did not know or ought to have known that such an infringement would occur.

8. FORCE MAJEURE

8.1 Force majeure mean an occurrence beyond the control of the party affected, provided that such party could not reasonably have foreseen such occurrence at the time of entering into the Contract and could not reasonably have avoided or overcome it or its consequences.

8.2 A party shall not be considered in breach of the Contract to the extent it is proven that he was unable to fulfil his contractual obligations due to force majeure. Each party shall cover its own costs resulting from force majeure.

8.3 The party invoking force majeure shall notify the other party thereof without undue delay. Such notice shall also include the cause of the delay and the presumed duration thereof.

8.4 Each party is entitled to cancel the Contract if the force majeure situation continues, or it is obvious that it will continue, for more than 60 days.

9. PROPRIETARY RIGHTS TO DELIVERABLES MANUFACTURED SPECIFICALLY FOR BUYER. CONFIDENTIALITY

9.1 Proprietary rights to Deliverables manufactured specifically for Buyer

If the deliverables are manufactured specifically for Buyer, the Deliverables are Buyer's sole property as and when the deliverables are performed. All reports, drawings, specifications and similar documents, including computer programs, that are prepared in connection with the work constitute part of the deliverables.

9.2 Confidentiality

All information exchanged or otherwise transferred between the parties shall be treated as confidential and shall not be disclosed to any third parties without the written consent of the other party.

A party may nevertheless make such information available to third parties provided that the information was already known to that party at the time the information was received, that the information is or becomes part of public domain other than through a fault of either of the parties, or is rightfully received from a third party without an obligation of confidentiality or it is necessary due to applicable laws and regulations.

Information may also be disclosed to third parties to the extent necessary for execution of the Contract or utilization of the Deliverables, provided that the receiver of such information shall be bound by a confidentiality obligation similar to this Article 9.2.

Without Buyer's written consent, seller shall not issue any press release or otherwise advertise that this Contract has been entered into.

10. ASSIGNMENT OF THE CONTRACT

Buyer is entitled to assign his rights and obligations pursuant to the Contract, fully or partly, to any third party. Seller may not assign his rights and obligations pursuant to the Contract without Buyer's written consent which shall not be unreasonably withheld.

11. APPLICABLE LAW AND LEGAL VENUE

The Contract shall be governed by Norwegian law.

A party may only bring a dispute in connection with the Contract before the appropriate court of the other party's legal domicile. Seller also agrees to have litigation brought before Oslo Tingrett/City Court.