



**GENERAL TERMS AND CONDITIONS FOR PURCHASE**

## **1. FIELD OF APPLICATION**

The following General Terms shall apply for all orders issued by the Purchaser to the Supplier unless otherwise specifically agreed. The General Terms shall also apply for future business transactions conducted between any member of the Flux Group and the Supplier, even if they are not referred to or enclosed in the individual future case(s).

## **2. DEFINITIONS**

"Consequential Loss" means all consequential and indirect loss under Norwegian law, as well as loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit, in each case whether direct or indirect, and whether or not foreseeable at the effective date of the Purchase Order.

"Flux Group" means Flux Group AS and any companies directly or indirectly controlled by Flux Group AS at any time.

"General Terms" means these general terms and conditions for purchase forming an integral part of the Purchase Order hereto attached.

"Goods" means materials, equipment, documentation and other goods to be delivered by the Supplier to the Purchaser pursuant to a Purchase Order.

"Price" means the total price of a Purchase Order, as originally set out or later amended.

"Purchaser" means the member of the Flux Group set out as purchaser in the Purchase Order

"Purchase Order" means a purchase order issued by the Purchaser for Goods or Services to be delivered by the Supplier to the Purchaser, and wherein a reference is made to these General Terms.

"Services" means services to be provided by the Supplier to the Purchaser pursuant to a Purchase Order.

"Supplier" means the legal entity supplying Goods or Services to the Purchaser pursuant to a Purchase Order.

"Supplier Group" means the Supplier and any companies directly or indirectly controlled by the Supplier at any time, and the employees and directors of the aforementioned companies.

## **3. OFFER, ORDER AND ORDER CONFIRMATION**

All offers and cost estimates of the Supplier shall be made free of charge and without obligation for the Purchaser.

Purchase Orders shall be issued by the Purchaser. The Supplier shall confirm the Purchase Order to the Purchaser within 5 business days as of receipt.

If the Supplier's order confirmation should diverge from the contents of the preceding Purchase Order from the Purchaser, or if the Supplier fails to confirm the Purchase Order in

accordance with the preceding paragraph, then the Purchaser shall be bound and committed only if the Purchaser agrees to the deviation or the delayed confirmation in writing.

Divergent terms and conditions of the business of the Supplier shall only be valid if specifically accepted by the Purchaser in writing. This shall also apply in the events where the Supplier refers to its own general terms and conditions in an offer or in an order confirmation.

The Supplier shall before start of production use his professional skills to search for possible faults and omissions in the Purchase Order, including drawings, materials, design etc. provided by the Purchaser. The Supplier shall immediately notify in writing if such faults and omissions are discovered.

#### **4. DELIVERY**

Unless otherwise set forth in the relevant Purchase Order, delivery shall be made FCA, Free Carrier (in accordance with INCOTERMS 2010 (or any standard substituting them) at the time and place indicated by the Purchaser in the Purchase Order.

The Goods shall be delivered properly packed and marked in accordance with the requirements in the Purchase Order.

#### **5. VARIATIONS**

The Purchaser has the right to order variations in quality, quantity or time of delivery of the Goods and Services.

Variations shall be requested by the Purchaser in writing. The Supplier shall within 5 business days by written notice confirm any effects on the Price, time of delivery and technical specifications. All adjustments in the Price shall correspond with the pricing method and principles applied for the rest of the Purchase Order. If the Supplier does not issue such confirmation notice, it will be considered as having accepted that the variation does not have any effects on the price and time of delivery or otherwise and this will be reflected in the variation order. The final variation shall be approved by the Purchaser in writing.

The variation order shall upon the Purchaser's written request be implemented, even if the parties have not reached agreement concerning the effects of the variation on price, time of delivery and technical specifications.

#### **6. DOCUMENTATION**

Delivery tickets and invoice shall be in accordance with the Purchase Order. These documents shall correspond with the Purchase Order regarding item number, description and specification. Each invoice shall be marked with the Purchaser's Purchase Order number.

All certificates and similar documentation shall clearly identify the specific items to which they relate. All documentation specified in the Purchase Order, e.g. certificates, drawings, data-discs are considered to be part of the Goods.

#### **7. TERMS OF PAYMENT**

Unless otherwise specifically set out in the Purchase Order, the Purchaser shall pay all invoices within 60 days after receipt of correct invoice, provided that all of the Supplier's

obligations according to the Purchase Order are fulfilled. The Purchaser has the right to withhold any disputed amounts.

The Supplier is entitled to interest on overdue payments calculated in accordance with the applicable rate pursuant to the Norwegian act regarding interest on overdue payments (act no. 100/1976).

All prices are exclusive of value added taxes (VAT) unless otherwise specified in the Purchase Order.

## **8. CANCELLATION**

The Purchaser has the right to cancel the Purchase Order by giving written notice to the Supplier. The Purchaser shall in such event pay to the Supplier the unpaid amount due for the work already performed with respect to the Goods and Services and in addition all direct costs reasonably incurred by the Supplier due to cancellation.

## **9. DEFECTS AND GUARANTEES**

The Supplier guarantees for a period of 24 months following the date when the Goods are taken into use in accordance with its intended purpose, that the Goods and Services conform to the specifications in the Purchase Order, and that the Goods are free of fault in material, workmanship, design and function.

The Purchaser shall examine the Goods with reasonable time after delivery. If any defects are found, the Purchaser shall notify the Supplier thereof in writing within reasonable time thereafter.

If the Goods are found to be defective during the guarantee period, Supplier shall at his own cost immediately remedy the defects. If the Supplier is not able to remedy a defect within reasonable time after receipt of the Purchaser's notification, the Purchaser has the right to have this work done by itself or by third parties, in any event with all costs for the Supplier's account. If the defects are material and may not, the Purchaser's reasonable opinion, be corrected within reasonable time, the Purchaser has the right to either require redelivery, reduction in the Price, or to terminate the Purchase Order according to Section 11 and in these instances also claim compensation for its losses.

If any guarantee work is performed in the guarantee period, any replaced/repaired parts of the Goods shall be guaranteed by the Supplier for a renewed period with the same duration as the original guarantee.

## **10. DELAY BY THE SUPPLIER**

If the Supplier has reason to believe that delivery of the Goods will be delayed, he shall immediately inform the Purchaser thereof in writing. Such notice shall include the reason for and the extent of the delay and shall state the corrective actions initiated in order to reduce the delay. If the Supplier's corrective actions, in the Purchaser's reasonable judgement, are not sufficient to reduce the delay, the Purchaser may require that the Supplier takes additional actions or the Purchaser may take such actions itself, including by arranging for international air freight, in each case for the Supplier's account.

If delivery of the Goods has not taken place within the time of delivery set out in the Purchase Order, the Purchaser has the right to liquidated damages in an amount equal to 0.3% of the

Price per day until delivery occurs. The Supplier's cumulative liability for liquidated damages is limited to 15 % of the Price.

#### **11. TERMINATION DUE TO DEFAULT BY THE SUPPLIER**

The Purchaser has the right to terminate the Purchase Order with immediate effect by giving written notice to Supplier, if (i) the Supplier becomes insolvent, (ii) the Supplier is in material breach of its obligations hereunder, or (iii) the Supplier has become liable for maximum liquidated damages pursuant to Section 10.

In addition to termination of the Purchase Order, the Purchaser is entitled to recover from the Supplier any costs, losses or damages suffered by the Purchaser due to such termination.

#### **12. INTELLECTUAL PROPERTY RIGHTS**

The Supplier shall indemnify and hold the Purchaser harmless from and against any losses incurred by the Purchaser based on claims for patent, trademark, copyright or other intellectual property right infringements arising from the purchase, installation or use of the Goods or Services.

In so far as any Purchase Order, as whole or in part, contains design work or the development of drawings, specifications, dies, patterns, tools software or other intellectual property rights, all results of such performances shall be the exclusive property of the Purchaser.

Drawings, specifications, dies, patterns, tools, data-discs and other information or documentation provided by the Purchaser to the Supplier shall be the property of the Purchaser and shall not be disclosed to any third party without the Purchaser's prior written approval. The Purchaser may require the Supplier to execute a separate declaration of confidentiality to this effect.

#### **13. QUALITY ASSURANCE AND CONTROL**

The Supplier shall have an established and documented Health, Safety and Environment (HSE) system and a quality assurance system in accordance with applicable law and the ISO 9002 standard or equivalent standards. If design or engineering is included in the delivery, ISO 9001 shall be required.

The Purchaser or a third party appointed by the Purchaser has the right to make the verifications, inspections and tests, including audits, at the facilities of the Supplier and its subcontractors, in order to satisfy himself that the Goods will be manufactured and the Services performed according to the requirements of the Purchase Order. Such inspections and verifications do not relieve the Supplier from any obligations under the Purchase Order.

#### **14. SUBCONTRACTORS**

The Supplier shall not assign this Purchase Order or subcontract any part of same without prior written approval by the Purchaser. The Supplier is responsible for the acts and omissions of any subcontractors. Subcontractors shall have no right to make claims towards the Purchaser.

The Purchaser may assign all or parts of its rights and obligations pursuant to the Purchase Order to any third party by written notice to the Supplier.

The Supplier shall verify that its subcontractor has an established and documented quality assurance system adequate for the Purchase Order.

#### **15. FORCE MAJEURE**

Neither of the parties shall be considered to be in default in performance of its obligations under the Purchase Order to the extent such performance has been prevented by an event which is considered as a qualified force majeure event under general principles of Norwegian contract law.

The party invoking force majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance.

#### **16. INDEMNITY, LIABILITY**

The Purchaser shall indemnify and hold the Supplier and Supplier Group harmless from and against all loss or damage to the Flux Group's property and injury to or death of their respective personnel that may arise in connection with the Purchase Order, and the Supplier and Supplier Group shall indemnify and hold the Flux Group harmless from and against all loss or damage to the Supplier and Supplier Group's property and injury to or death of their respective personnel that may arise in connection with the Purchase Order. This shall apply irrespective of how the loss or damage is caused.

The Supplier shall not in any event be liable for any Consequential Loss of the Flux Group, and the Purchaser shall not in any event be liable for any Consequential Loss of the Supplier and Supplier Group.

The Supplier shall indemnify the Purchaser and hold him harmless against any loss or damage caused to third parties by the Supplier.

The Supplier shall be able to demonstrate to the Purchaser that it has taken out reasonable insurance coverage for the above liabilities and indemnities.

#### **17. TITLE TO THE GOODS. RISK**

Title to the Goods shall pass to the Purchaser as the work progresses and when parts are identified and marked for the purpose of the Purchase Order. The Supplier shall clearly mark these materials and if possible, keep these items separated from other materials.

Risk of loss of or damages to the Goods shall pass upon delivery.

#### **18. GOVERNING LAW AND DISPUTES**

The Purchase Order shall be governed by and construed in accordance with the laws of Norway.

Any disputes that may arise from the Purchase Order shall be subject to the exclusive jurisdiction of the Norwegian courts with Stavanger city court as agreed venue where the Supplier is an EU registered entity or EU citizen. In the event the Supplier is a non-EU registered entity or a citizen of a non-EU state, any disputes that may arise from the Purchase Order shall be subject to arbitration in Stavanger in accordance with the Norwegian Arbitration Act.