



General Purchase Conditions

NORWEGIAN ARMED FORCES

1 Area of Application and Precedence of Documents

Form 5052 contains the General Purchase Conditions for the Norwegian Armed Forces. Form 5052 shall be an integral part of any Contract that specifically invokes its application (inclusive but not limited to purchase orders) and shall not deviate from these General Purchase Conditions unless otherwise stipulated through special conditions.

In the event that the documents of a Contract, specifically invoking Form 5052, contain contradictory provisions, the following precedence of documents shall apply:

1. Special Contract Conditions
2. Form 5052
3. Functional requirements
4. Other requirements and technical specifications, including blue prints/drawings furnished by the Armed Forces.
5. Contractor's technical solution

This Contract replaces and supersedes all previous documents and discussions undertaken prior to entering into this Contract, including the invitation to tender, offer, and terms of sale.

2 Contractor's Obligation Concerning Deliveries

2.1 General

The Contractor shall complete the agreed delivery on time and in accordance with all obligations in the Contract.

The delivery shall always be suitable for its intended purpose in accordance with its certificate of conformity.

2.2 Legal Requirements

The Contractor is responsible for ensuring that the delivery fulfils all legal requirements applicable at the time when this Contract is entered into and acted upon. In addition, the Contractor is responsible for ensuring that the delivery fulfils all legal requirements that the Contractor knew or ought to have known would apply at the time of delivery.

The Contractor has a duty to notify the Armed Forces of any legal changes that affect the application of this Contract and any specific delivery. If additional costs are incurred through the Contractor's failure to effectively comply with this duty to notify, the Contractor shall cover these costs.

3 Implementing the Delivery

3.1 Accepting the Delivery

Before presenting deliveries for the Armed Forces, the Contractor shall verify that the delivery is in accordance with the requirements of this Contract.

After delivery, the Armed Forces shall execute its acceptance procedure without undue delay.

3.2 The Armed Forces' rights when the Contractor wishes to deliver earlier than the agreed time

The Contractor cannot complete a delivery prior to the agreed upon time of delivery without obtaining a written approval of the Armed Forces. Such an approval does not affect the contracting parties' remaining rights and duties according to this Contract.

3.3 The Armed Forces' Right to Reject Defective Deliveries

In case of defective deliveries, ref. Article 6, the Armed Forces can reject the defective part of the delivery, as well those parts of the delivery that are affected by defects. The rejection shall be made in writing. Rejected deliveries shall be regarded as not having been delivered.

4 Payment

4.1 Payment Conditions

The Armed Forces shall make payment within 30 days of receipt of delivery, invoice and other vouchers. Payment does not entail acceptance of the delivery.

4.2 Delinquent payment

If the Armed Forces fail to make payment on time, the Armed Forces shall pay default interest in accordance with applicable Norwegian law (Lov om renter ved forsinket betaling m.m. av 17. desember 1976 nr. 100).

5 Armed Forces' Rights Concerning Late Deliveries

5.1 Delay

A delay occurs when the Contractor fails to comply with their obligations in accordance with the Contract at the agreed date and this (delay) is not attributed to factors subject to the Armed Forces' control, or risks that the Armed Forces have accepted, including Force Majeure (ref. article 7).

5.2 Contractor's Duty to Notify and Limit Delays

If the Contractor realises or has reason to assume that a delay will occur, they shall notify the Armed Forces in writing. The notification shall provide the estimated duration of, and reason for, the delay.

The Contractor is obligated to do everything in their power to limit the delay. The Contractor shall also keep the Armed Forces informed on measures the Contractor is taking to limit the delay.

In the event the Contractor believes the reason for their failure to comply with their obligations is attributed to factors subject to the Armed Forces' control or risks that the Armed Forces have assumed, including Force Majeure, the Contractor shall document this without undue delay while seeking to minimize the effects of the delay.

5.3 The Armed Forces' Right to Maintain Contractual obligations when Delays Occur

The Armed Forces have the right to uphold the Contract and demand its completion in spite of delivery delays.

5.4 The Armed Forces' Right to Impose Penalties when Delays Occur

When delays occur, the Armed Forces can demand penalties from the Contractor. The penalty shall be paid regardless of whether the Armed Forces actually have incurred additional costs as a result of the delay or not.

The penalty is a daily fine calculated per delayed calendar day and shall amount to 0.1 percent of the price of that part of the delivery that has been delayed, and, if applicable, of the price of those parts of the delivery that cannot be put to use as intended due to the delay. Price is in this case defined as the basis price plus agreed changes, including adjustment for price- and currency escalation.

The penalty is limited to 10 percent of the price of that part of the delivery that is delayed.

5.5 The Armed Forces' Right to Cancel Due to Delays

The Armed Forces can cancel parts of, or the entire Contract, if a delay represents a fundamental breach of the Contract.

5.6 The Armed Forces' Right to Compensation when Delays Occur

The Armed Forces are entitled to compensation for direct losses incurred as a result of the delay, unless the Contractor can prove that delay is directly attributable to the Armed Forces.

If a delay is caused by the Contractor's negligence, the Armed Forces are also entitled to compensation for indirect losses incurred as a result of the delay.

Accrued penalties will not be deducted from awarded compensation.

6 Defects

6.1 Defects

A defect exists if the delivery fails to comply with stipulated Contract requirements and this cannot be attributed to factors subject to the Armed Forces' control or factors of which the Armed Forces have assumed risks, including Force Majeure.

6.2 The Armed Forces' Duty to File Complaints of Defects

Within reasonable time after discovering a defect, or when they ought to have discovered a defect, the Armed Forces are obliged to provide the Contractor with notification of the defect.

Regardless, the Armed Forces must file complaints within two years of time of delivery.

Defective parts that have been repaired due to a defect, receive a new complaints period starting with the repair date. For parts that could not be put to intended use due to the defect, the complaints period is extended equivalent to the time elapsed between the time of the Contractor notification and the time of repair of the defect.

6.3 The Armed Forces' right to have defects repaired

The Armed Forces are entitled to have defects repaired or replaced. A replacement delivery however, can only be demanded when substantial defects occur. The Contractor is liable for all expenses and risks associated with repairs.

If the Contractor fails to make repairs within reasonable time, the Armed Forces can have the defect repaired at the Contractor's expense.

If the Contractor wishes to carry out repairs at their facilities, the Contractor shall collect the delivered goods from the Armed Forces at their own expense. If the Armed Forces have distributed the delivery to individual (geographically separate) units, the Armed Forces shall gather these at a suitable location for Contractor collection. If the Contractor wishes to carry out repairs on the premises of the Armed Forces, the Contractor is liable for all the associated expenses. The Armed Forces have, on a justifiable basis, the right to deny the Contractor from carrying out the repair on the premises of the Armed Forces. In this case, repair is to be carried out on the premises of Contractor as mentioned above.

6.4 The Contractor's right to make repairs

The Contractor has a right to undertake repairs for defective parts when this can be done without significant inconvenience to the Armed Forces and without jeopardizing the Armed Forces' right to have their expenses reimbursed by the Contractor. In cases of significant defects, the Armed Forces can demand replacement deliveries.

In cases where the Armed Forces have arranged to have defects repaired because it would be considered unreasonable to demand that the Armed Forces awaited the Contractor's repair, the Contractor cannot claim that they did not have the opportunity to make the repair.

Correspondingly, Article 6.3 applies for Contractor repairs.

6.5 The Armed Forces' right to demand price reductions due to defects

Whenever a repair is not feasible, or the Contractor does not insist on making repairs in accordance with article 6.4., or a repair has not been made within reasonable time, the Armed Forces can demand price reductions. Price reductions shall be calculated as equal to the difference between the value of the defective delivery and the original agreed price.

6.6 The Armed Forces' right to cancel due to defects

The Armed Forces can completely or partially cancel a clause to this Contract if that part of the agreement that is cancelled has been significantly breached. This includes; whenever a repair is not feasible; or, the Contractor does not insist on making a repair in accordance with Article 6.4; or, a repair has not been made within reasonable time.

6.7 The Armed Forces' right to demand compensation due to defects

The Armed Forces are entitled to compensation for direct losses suffered as a result of the defect. In addition the Armed Forces are entitled to compensation for indirect losses suffered as a result of the defect if the defect is caused by Contractor negligence.

7 Force Majeure

Force Majeure is defined as an obstacle caused by extraordinary events beyond the control of the Parties which makes it impossible for the Parties to fulfil their agreed obligations, provided that; the Parties couldn't have avoided or overcome the obstacle or its' effect. Such situations may be war, rebellion, national unrest, natural disasters or other circumstances of similar severe nature.

Obligations that cannot be fulfilled due to Force Majeure are suspended. The other Party's reciprocal services are suspended during the same period.

In connection with Force Majeure, the parties have a mutual obligation to keep each other informed regarding all conditions that ought to be considered relevant to the other party. Such information shall be passed on without undue delay.

8 Quality assurance

The Contractor shall have a quality assurance system designed for the earliest detection possible of existing defects, potential defects as well as other conditions that may result in inadequate quality of Contractor performance

The Armed Forces are entitled to inspect all aspects of the Contractor's undertakings per this Contract, such as; development; construction/design; and, production during all stages of the Contract. The same applies for all documents or recordings/transcriptions. The Armed Forces shall notify the Contractor in reasonable time before conducting inspections

The Armed Forces' right to perform audits according to this Article is independent of the location where the Contractor carries out their agreed obligations. If the Contractor performs some of their agreed obligations abroad, the Armed Forces are entitled to delegate the quality assurance function to the military authorities of that Country

Quality assurance performed by the Armed Forces does not exempt the Contractor from their assumed obligations per the Contract. Failure to conduct quality assurance does not limit the rights of the Armed Forces in accordance with the Contract.

9 Immaterial rights

9.1 Breach of third party immaterial rights

The Contractor shall not infringe on patents or other immaterial rights in connection with fulfilment of the Contract. The Contractor shall indemnify the Armed Forces from any claim that may arise as a consequence of patent infringement or other immaterial rights in connection with the fulfilment of the Contract.

The Armed Forces shall indemnify the Contractor from any claim resulting from the use of drawings, specifications or licences provided by the Armed Forces.

The Parties shall have a reciprocal duty to notify each other of claims regarding patent infringement or other immaterial rights concerning production or use of the delivery.

9.2 Use of documentation

The Armed Forces have the right to utilize documentation provided in conjunction with the delivery for the purposes of training, use, codification, maintenance and repair. The Armed Forces are entitled to copy documentation for its own use.

10 Government furnished material

10.1 Property rights of material the Armed Forces have handed over to Contractor

The Armed Forces retain ownership rights and all other rights to government furnished material in connection with the implementation of this Contract. This also applies for possible scraps and surplus material that originates from this material.

10.2 Marking of Armed Forces' Property

The Contractor shall clearly mark all government furnished material in their possession as "Property of the Norwegian Armed Forces". In order to allow identification of Armed Forces' property, it shall be stored separately.

11 Advertisement

The Contractor must obtain advance approval from the Armed Forces if, for advertising purposes or for other reasons, they wish to disclose information about Contract. The Armed Forces can deny such approval without justification.

12 Changes

12.1 Changes to the Contract

The Contract can only be modified through both Parties' signature of an Agreement of Change. The Contractor cannot claim that statements, actions or omissions by the Armed Forces, including minutes of meetings and correspondence, constitute a de facto amendment of the Contract.

13 Termination

The Armed Forces may terminate the entirety, or parts, of the Contract. The termination shall indicate the date of termination of the Contract, as well as a description of what the Contractor needs to do in connection with the termination.

Regarding terminations the Armed Forces shall cover the following:

- Pay agreed price for implemented deliveries
- Pay a proportional share of agreed price for work associated with deliveries that haven't been implemented.
- In addition, the Armed Forces shall cover documented termination expenses and losses incurred by the Contractor, including a proportional share of the expected profit arising from work that hasn't been done, adjusted for the reduced commercial risk resulting from the termination.

In connection with the termination, the Contractor shall implement all reasonable measures to limit costs and losses resulting from the termination, including seeking new contracts. In the opposite event, the compensation of Contractor' costs and losses shall be reduced correspondingly. The total amount payable to the Contractor concerning the termination, including all executed payments, shall be determined through negotiations. Under no circumstances shall the total compensation exceed the agreed total price of the Contract.

Work in progress that has not been delivered, but is included in the settlement shall be transferred to the Armed Forces when final settlement is decided.

14 Governing Law and an legal venue

This Contract is governed by Norwegian law.

In the event of disputes concerning the Contract, attempts shall be made to settle the dispute through negotiations. If negotiations fail to succeed, the dispute shall be settled in ordinary court of law, using Oslo Tingrett as legal venue. The fact that a dispute is brought to court for settlement does not exempt the parties from fulfilling their obligations according to the Contract.