

**General Terms and Conditions  
for the Procurement of  
Goods for Manufacturing**

**1 Application and Interpretation**

1.1 These "General Terms and Conditions", revision January 2022, shall apply for the procurement of goods for manufacturing for NORCE Norwegian Research Centre AS.

1.2 In these General Terms and Conditions, the following definitions shall apply:

- 1.2.1 "Buyer" shall mean NORCE Norwegian Research Centre AS.
- 1.2.2 "Buyer Group" shall mean Buyer and its affiliated companies and customers involved in the project for which the Work is being performed or the Goods are being procured, and their respective officers, employees, servants and agents.
- 1.2.3 "Buyer Provided Items" means the items and/or the pieces of equipment and/or documents and/or material to be provided by Buyer for the implementation of the Work and specified in the Contract.
- 1.2.4 "Contract" shall mean the Contract Form for Procurement of Goods for Manufacturing, entered into by and between Buyer and Supplier including any attachments thereto, and these General Terms and Conditions.
- 1.2.5 "Contract Date" means the signature date of the Contract Form.
- 1.2.6 "Contract Price" means the total sum payable to Supplier in accordance with the Contract, as that sum is calculated in accordance with the provisions of the Contract.
- 1.2.7 "Day" means a consecutive calendar day unless otherwise stated.
- 1.2.8 "Delivery Date" means the date of delivery of the Goods as set out in the Contract, or as varied in accordance with the provisions of the Contract.
- 1.2.9 "Delivery Protocol" means a written protocol to be concluded by both Parties in accordance with clause 9 (Delivery) prior to the delivery of the Goods.
- 1.2.10 "Force Majeure" means an extraordinary 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, overcome or mitigated it or its consequences.
- 1.2.11 "Goods" means the Contract object and/or items and/or the pieces of equipment and/or documents and/or material and/or spare and wear and tear parts which Supplier, according to the Contract, shall deliver, together with all parts thereof.
- 1.2.12 "Warranty Period" means such period stated in clause 11.4 (Warranty).
- 1.2.13 "Party" shall mean Buyer or Supplier. "Parties" shall mean Buyer and Supplier.
- 1.2.14 "Representative" means the person who is appointed by a Party in accordance with clause 2 (Representatives) to act on behalf of that Party.
- 1.2.15 "Schedule" means the agreed time schedule and milestones for the commencement and Delivery date set out in Contract.
- 1.2.16 "Site" means a place where Work is performed.

- 1.2.17 "Specifications" means specifications included in the Contract.
- 1.2.18 "Supplier" shall mean the legal entity that has entered into the Contract with Buyer.
- 1.2.19 "Supplier Group" shall mean Supplier and its affiliated companies, subcontractors and vendors involved in the delivery of the Goods, and their respective officers, employees, servants and agents.
- 1.2.20 "Variation Order" means Buyer's order for Variation to the Work.
- 1.2.21 "Variation Order Request" means Supplier's request for Variation to the Work.
- 1.2.22 "Variation to the Work" means a variation to the Work, Schedule, Specifications, and Buyer Provided Items made in accordance with the provisions of clause 6 (Variations to the Work).
- 1.2.23 "Work" shall mean the work and/or services and/or Goods that Supplier shall perform for Buyer, as further described in the Contract.

1.3 Any deviating contract terms shall be regarded as null and void unless they have been explicitly accepted by Buyer in writing and are included in the Contract.

**2 Representatives**

2.1 Prior to commencement of the Work each Party shall appoint a Representative with authority to act on its behalf in all matters concerning the Contract. Each Party may, by giving 14 Days' notice to the other Party, substitute a Representative.

2.2 Supplier shall upon Buyer's request give Buyer's Representative access to the Site(s) and the Work during working hours.

2.3 All notices, claims and other notifications in accordance with the provisions of the Contract shall be given in writing submitted to Buyer's or Supplier's representatives, as applicable, by registered letter, courier or e-mail.

**3 Performance of Work**

3.1 Supplier shall perform the Work in a professional and careful manner and in accordance with the Contract. As part of such performance Supplier shall:

- a. give high priority to safety in order to protect life, health, property and environment, and
- b. cooperate with Buyer's Representative and persons appointed by him or her.

3.2 Supplier shall take good care of the Goods and Buyer Provided Items and shall ensure that these are kept in good order and condition.

3.3 The Supplier shall cooperate with Buyer and other contractors and organise its operations to ensure that all activities on a Site are carried out efficiently and without delay.

3.4 Supplier shall at all times keep itself informed of and comply with:

- a) all provisions of applicable law and regulations relevant to the Contract, including but not limited to, health, safety and environmental

- legislation, regulations, policies, procedures, and
- b) requirements and orders of classification societies and public authorities and standards, and
- c) and current trade union and wage agreements applicable at any location related to the Work to be carried out under the Contract.

Should changes in such requirements be effected after Contract Date, which necessitates changes to the Work and this in turn effects Supplier's cost or progress, then Supplier shall be entitled to issue a Variation Order Request.

- 3.5 Supplier shall, in due time, obtain and maintain such approvals and permits as are necessary for the performance of the Work and delivery of Goods. When so requested by Buyer, Supplier shall assist in obtaining approvals and permits concerning the Work or Goods which can only be obtained in the name of Buyer.
- 3.6 Supplier shall at all times act as an independent contractor and nothing stated or implied herein shall be construed to make Supplier an employee of Buyer nor shall Supplier in any way represent that it or any of its employees are employees of Buyer.
- 3.7 Buyer's approvals, comments, reviews, tests, inspections etc. shall not release Supplier from any obligations under the Contract, unless otherwise clearly set out in the Contract.

#### **4 Schedule**

- 4.1 Supplier shall perform the Work in accordance with the Schedule.
- 4.2 If Supplier should have cause to believe that the Work cannot be carried out in accordance with the milestones set out in the Schedule, it shall promptly notify Buyer accordingly.
- 4.3 If the Work cannot be performed according to the Schedule, for reasons for which Supplier is responsible, it shall within 14 days after notification communicate:
  - a. the cause of the delay, and
  - b. its estimated effect on the Schedule and other parts of the Work, and
  - c. the measures which Supplier considers appropriate to avoid, recover or limit the delay.
- 4.4 If in Supplier's opinion the Work cannot be performed according to the Schedule owing to circumstances for which Buyer is responsible for, including such circumstances as referenced in clause 3.5, a Variation Order Request must be presented without undue delay, and at the latest, before the expiry of the time limits set forth in clause 6 (Variations to the Work). Buyer shall within reasonable time notify Supplier of its view of the information provided by Supplier set out in this clause 4 (Schedule). Such notification shall not release Supplier from any of his obligations to perform the Work in accordance with the Schedule.
- 4.5 If the measures proposed or implemented by Supplier are insufficient to avoid or recover the delay, then Buyer may instruct Supplier to take such measures as Buyer considers necessary. All costs relating to measures taken to avoid or recover a delay shall be for Supplier's account to

the extent that such delay can be attributable to Supplier.

#### **5 Buyer Provided Items**

- 5.1 Buyer shall provide such Buyer Provided Items and make such decisions as it is obliged to under the Contract within reasonable time.
- 5.2 The Supplier shall without undue delay search for and notify Buyer of any defects, discrepancies and inconsistencies discovered in the Buyer Provided Items. If Supplier does not notify Buyer of any defects, discrepancies and inconsistencies that is or ought to have been discovered, and as a result, Buyer incurs direct extra costs in connection with the Work which are not covered by insurance, or loses rights or guarantees, then all such costs incurred shall be borne by Supplier.

#### **6 Variations to the Work**

- 6.1 Buyer has the right to order Variations to the Work, including increases or decreases in the quantity, or changes in character, quality, kind or execution of the Work or any part thereof, as well as changes to the Schedule. Nevertheless, Buyer has no right to order Variations to the Work which cumulatively exceeds that which the Parties could reasonably have expected when the Contract was entered into.
- 6.2 If Buyer after signing this Contract finds it necessary to change the requirements for the Work or other conditions of the Contract, Buyer may issue a Variation Order. Before Buyer issues a Variation Order, Buyer can require that Supplier within ten (10) calendar days from the receipt of a request, shall submit to Buyer an estimate containing
  - a. a description of the work to be performed under the Variation Order;
  - b. the effects on the Contract Price; and
  - c. the effects on the Schedule.

Unless otherwise agreed in writing between the Parties, the price for Variations to the Work shall be based upon the pricing level, rates and unit prices submitted by the Supplier during the procurement process.

If Supplier does not submit such estimate within the deadline, it shall be considered as an acceptance of the Buyer's requirement without any effect on the Contract Price and/or on the agreed Schedule or delivery conditions, and a Variation Order will be issued reflecting the same.

- 6.3 If Supplier finds that it has received an instruction from Buyer which should be handled pursuant to clause 6.2 above, then Supplier shall within five (5) Days from having received the instruction from Buyer, issue to Buyer a Variation Order Request in which Supplier may request an adjustment to the Contract Price, and/or to the Schedule and/or to the delivery conditions, if Supplier can substantiate the grounds for such adjustments. A detailed and documented claim for adjustments to the Contract Price and/or the Schedule and/or the delivery conditions must be submitted as soon as possible and no later than fourteen (14) days from when the initial Variation Order Request was submitted to Buyer. These deadlines are preclusive for Supplier with respect to requesting changes to the Contract Price and/or the Schedule and/or to the delivery conditions. Buyer shall issue a corresponding Variation Order if it finds the

Variation Order Request to be in accordance with the Contract.

- 6.4 Buyer may demand that the scope of the Work is reduced or increased by up to the corresponding of 20 percent of the Contract Price. The Contract Price shall in such case be changed correspondingly to the decrease or increase. Supplier may not claim any compensation or fee for such reduction.
- 6.5 Subject to the limitations which follow from clause 6.1 (Variations to the Work) Buyer may require Supplier to undertake special measures to avoid variation work having an effect on the Schedule, or to limit the consequences of Buyer's Variations.
- 6.6 If the Parties disagree as to the effect on the Contract Price, Schedule, delivery conditions or other consequences arising out of a Variation to the Work, then the views of both Parties shall be recorded on the Variation Order. Supplier shall still implement the Variation Order without undue delay and without awaiting the final resolution of the dispute. The same shall apply in event of instructions made by Buyer.
- 6.7 All Supplier's obligations under the Contract also apply to Variations to the Work, unless otherwise agreed.
- 6.8 Changes due to circumstances for which Supplier is responsible shall not entitle Supplier to request any Variation to the Work based on this clause 6 (Variations to the Work).

## **7 Suspension**

- 7.1 Buyer may temporarily suspend the Work in whole or in part for convenience by giving written notice to the Supplier. Such request shall be presented in writing and state which part(s) of the Work to be suspended, from which date and the estimated date for resumption of the Work. Supplier shall resume its activities on the suspended portion of the Work when directed to do so by Buyer.
- 7.2 Supplier is entitled to be paid for the reasonable and documented direct costs incurred by Supplier as a direct consequence of the suspension, less any amounts due from Supplier to Buyer. Buyer shall not, however, be obligated to pay Supplier for any expenses incurred by a suspension to the extent such suspension is caused by an act or omission of Supplier or can be attributed to Supplier. Supplier shall properly protect and secure the Work against deterioration, loss or damage, and continue to perform any Work that is not suspended with all due diligence.
- 7.3 Supplier shall resume work upon notification from Buyer. Buyer shall compensate Supplier for its unavoidable documented direct costs related to the suspension provided that the Supplier issues a Variation Order Request in accordance with clause 6.3 (Variations to the Work). Costs shall be calculated based on the pricing level, rates and unit prices submitted by the Supplier during the procurement process. Buyer shall not, however, be obligated to pay Supplier for any costs incurred by a suspension to the extent such suspension is caused by an act or omission of Supplier or can be attributed to Supplier.
- 7.4 In the event of a suspension under this clause 7 (Suspension), the Schedule shall be adjusted with due regard to the period of suspension, unless

such suspension is caused by an act or omission of Supplier or can be attributed to Supplier.

- 7.5 If the Work or parts thereof have been suspended continuously for a period exceeding 120 Days, then Supplier may cancel the Contract for that part of the Work which is suspended by giving 14 Days' written notice. If Buyer has not ordered a resumption of the Work within 14 Days after receiving the notice, then the provisions of clause 8 (Cancellation) shall apply accordingly.

## **8 Cancellation**

- 8.1 Buyer may by notice to Supplier cancel the Contract for convenience in whole or in part with the consequence that the performance of the Work ceases (cancellation). Such cancellation shall be effective on the date and in the manner specified in the notice and shall be without prejudice to any and all obligations owing to, and any and all liabilities incurred, by either Party hereto prior to such notice.
- 8.2 If Buyer should elect to cancel the Contract pursuant to clause 8.1 (Cancellation) then Supplier, unless the notice directs otherwise, shall immediately cease performance of the Work.
- 8.3 Supplier shall endeavour to cancel any and all of its outstanding orders or subcontracts upon such terms as may be approved in writing by Buyer. When such terms are not approved, or if Buyer should so request, Supplier shall assign such orders to Buyer and take such actions as may be necessary in order to secure for Buyer the rights of Supplier contained therein.
- 8.4 Following such cancellation, Buyer shall pay:
  - a. the unpaid balance due to Supplier for that part of the Work already performed and completed in accordance with the Contract, and
  - b. documented direct costs incurred by Supplier as a direct consequence of such cancellation by Buyer, provided that such costs are not covered by any payment already made, and
  - c. necessary and documented cancellation charges incurred by Supplier in connection with the cancellation, subject to the terms of clause 8.3 above.
- 8.5 Upon Buyer's request, the Parties shall conclude a Delivery Protocol stating each Party's view of the percentage of the Goods and the Work completed. Supplier shall furthermore deliver and transfer to Buyer in accordance with Buyer's instructions any part of the Work for which Supplier is entitled to receive payment according to the Contract, together with copies of all plans, drawings, specifications and other documents related to the Work which Buyer, or an entity appointed by Buyer, shall have an irrevocable, non-exclusive, royalty-free and global right to use in order to complete the Work and use the Goods as intended and in accordance with the Contract.
- 8.6 Upon Buyer's request, the Supplier shall move the Goods and Buyer Provided Items from Site and to a suitable location for storage.
- 8.7 For reductions of the Work by up to 20 percent of the Contract Price clause 6 (Variation Order) shall apply and not this clause 8 (Cancellation).

## **9 Delivery**

## 9.1 General

- 9.1.1 Unless otherwise explicitly agreed in writing, the delivery of Goods shall take place in accordance with this clause 9 (Delivery).
- 9.1.2 Title and ownership to the Goods, including any document or other items supplied by Supplier for the purpose of the Work, shall pass to Buyer progressively as the Work is performed. Title and ownership to materials and equipment passes to Buyer on arrival at Site, or when paid for by Buyer, if payment has been made earlier. The Goods and materials owned by Buyer shall be free of liens other than those for which Buyer is responsible. Risk shall pass to Buyer upon delivery of Goods in accordance with the agreed Incoterm at the location specified by Buyer.
- 9.1.3 The Goods shall be delivered DDP (Incoterms 2020) to Buyer at or by the Delivery Date in accordance with the Contract.
- 9.1.4 At delivery, relevant instructions for all installation, operation and maintenance shall be included in Norwegian or English for the Goods. Any other documentation agreed upon and specified in the Contract shall also be included.
- 9.1.5 Irrespective of vesting of title, Supplier will bear the risk of loss of and damage to the Goods until the same are delivered in good condition in accordance with the Contract.
- 9.1.6 If the Contract states that the Goods shall be divided into part deliveries, then the provisions of this clause 9 (Delivery) shall apply accordingly to each part delivery.

## 9.2 Delivery Protocol

- 9.2.1 Prior to the delivery of the Goods the Parties shall jointly, upon Buyer's request, conclude a Delivery Protocol within reasonable time of the Delivery Date after the Goods have been completed, has passed the tests specified in the Contract, and is ready for delivery. If the Contract states that tests shall be carried out after the Goods have been physically delivered to Buyer in accordance with clause 9.1, then the Goods shall nonetheless not be considered to have been delivered to Buyer, for the purpose of such obligations on the part of Buyer which arises at the time of delivery of the Goods to Buyer, until such time as the applicable tests have been carried out successfully.
- 9.2.2 The Delivery Protocol shall be concluded even if minor parts of the Work remain incomplete, provided that they do not have practical significance for the use of the Goods, or for later work to be performed by others.
- 9.2.3 The Delivery Protocol shall state outstanding items of the Work, and contain information on their completion. When the Parties disagree, both views shall be recorded in the Delivery Protocol.
- 9.2.4 The Delivery Protocol shall be dated and signed by both Parties.

## 9.3 Tests and inspection

- 9.3.1 Supplier shall perform all inspections and tests as described in the Contract. Without prejudice to these obligations, Buyer or its authorised representative has the right to inspect and test the Work.
- 9.3.2 The above-mentioned inspections and verifications shall not exempt Supplier from

responsibility for the performance of the Work according to the Contract. The same applies if Supplier provides Buyer with technical or other documentation for Buyer's review or approval.

- 9.3.3 Buyer shall be timely advised in advance of any prescribed test to be carried out by Supplier. Should Supplier fail to give such notice, Supplier shall bear the costs of additional tests, if demanded by Buyer. Failure by Buyer to inspect, test or reject any part of the Work shall not excuse nor relieve Supplier from the performance of its obligations under the Contract.

## 10 Payment terms

- 10.1 The Contract Price shall be the total price for the Work inclusive of all costs and expenses, such as e.g. packaging, spare and wear and tear parts, customs, duties, taxes (exclusive of VAT) and other levies. Unless otherwise agreed, the Contract Price shall be stated in NOK and be exclusive of VAT.

- 10.2 Buyer shall pay the Contract Price to Supplier in accordance with the provisions stated in this clause 10 (Payment terms) and elsewhere in the Contract.

- 10.3 Unless otherwise agreed, the Contract Price shall be paid in accordance with the following schedule upon receipt of correct and documented invoice from Supplier:

20 % upon signature of Contract  
50 % upon accepted Delivery according to schedule  
30 % Completed training and receipt of all documentation

- 10.4 Final invoice for the Work shall be submitted to Buyer no later than 60 days after Delivery Date. Invoices submitted after this deadline will be rejected.

- 10.5 Any invoice from the Supplier shall be due 45 Days after invoice date. Documentation necessary for control of the invoiced amount shall be appended. All invoices shall be clearly marked with Buyer's purchase order number/reference and any other details referenced in the Contract Form. Incorrect invoices may be rejected by Buyer. Payments made shall not in any way constitute or be interpreted as an approval or confirmation of contractual delivery of Goods nor as a waiver of any contractual remedies that the Buyer might have due to Supplier's breach of contract pursuant to this Contract or at law.

- 10.6 Invoices shall be submitted in accordance with the Electronic Trading Format (EHF) to NORCE Norwegian Research AS, org. no. 919 408 049. Supplier shall be responsible for paying any cost it may incur in respect of submitting electronic invoices. If Supplier is not able to submit invoices via EHF then invoices shall be e-mailed to fakturamottak@norce-research.no.

- 10.7 Invoice fees, late payment fees and other fees are not admitted.

- 10.8 Buyer may deduct or withhold any amounts in accordance with applicable law. If any dispute connected with the Contract exists between the Parties then Buyer may withhold from money which becomes payable to Supplier under the Contract, the amount which is the subject of the dispute. Payment of undisputed parts of an invoice

shall nevertheless be made in accordance with this clause 10 (Payment terms).

## **11 Warranty**

11.1 Supplier warrants the performance of the Work shall be in strict accordance with the Contract. Supplier also warrants that materials delivered by Supplier for incorporation into the Goods are new and of high quality, and that any engineering performed by Supplier will be suitable for the purpose and use for which, according to the Contract, it is intended.

11.2 Supplier also warrants that the Goods will be free from liens, defects and errors and conform to the drawings and specifications and other terms and conditions which are valid at the time of delivery. This warranty does not apply to Buyer Provided Items unless the contrary is explicitly stated in writing.

11.3 Supplier's liability for breach of the abovementioned warranties is regulated by the provisions on liability for defects in clause 15 (Defect).

11.4 The Warranty Period commences at the conclusion of the Delivery Protocol. It expires on the first occurrence of the following times:

- a. Two years from the conclusion of the Delivery Protocol, or
- b. Two years from the date Buyer has taken over the Goods in accordance with the Contract, where the Delivery Protocol has not been concluded.

11.5 In case Supplier performs warranty work during the Warranty Period, it warrants according to clause 11 (Warranty) for those parts of the Work affected by the warranty work. This guarantee applies for two years after the date of completion of the warranty work.

11.6 Buyer shall be entitled to enforce the warranties given by sub-suppliers to the Supplier.

## **12 Intellectual Property Rights**

12.1 Commercial and technical information, including drawings, documents and computer programs regardless of method of storage, and copies thereof, provided by Buyer to Supplier shall be the property of Buyer. The same applies to information developed by Supplier on the basis of information provided by Buyer.

12.2 All Goods, results, outcome and inventions made by Supplier in relation to the Work, and all materials, equipment or other items supplied by Supplier to Buyer for the purpose of the Work, shall also be the property of Buyer. All designs, drawings, electronic data or other documents furnished by Supplier to Buyer during the performance of the Work shall be the property of Buyer and may be used by Buyer in its regular activities.

12.3 Supplier shall notify Buyer of such results, outcome or inventions which shall be Buyer's property. Supplier shall provide the necessary assistance to enable Buyer to acquire the patents to inventions as well as other forms of assistance to obtain other suitable protection of the results.

12.4 Such information as stated in clause 12.1 (Intellectual Property Rights) and results, outcome

or inventions as stated in clause 12.2 (Intellectual Property Rights) shall not be used by Supplier other than for the purpose of the Work. All documentation, all computer programs and copies shall be sent or returned, as applicable, to Buyer at the expiry of the Contract, unless otherwise agreed.

12.5 Supplier hereby grants Buyer an irrevocable, royalty-free, non-exclusive, transferrable, global license under patents and/or other intellectual property rights now or hereafter owned or controlled by Supplier to use Supplier's commercial and technical information, including drawings, documents and computer programs regardless of method of storage, and copies thereof, related to the Work and to the results, outcome or inventions mentioned in clause 12.2 (Intellectual Property Rights) to the extent necessary in connection with Buyer's presently intended and/or future use, operation, repair, modification, extension, rebuilding and maintenance of the Goods and exploitation of the results, outcome or inventions mentioned in clause 12.2 (Intellectual Property Rights).

## **13 HSE, Compliance and Business ethics**

### **13.1 Business ethics**

13.1.1 The Supplier shall be committed to maintain the highest ethical standards in all aspects related to the Work and shall adhere to the applicable laws, regulations and guidelines for ethics, anti-corruption, money-laundering, human rights and labour law. Supplier shall ensure that all of its employees, board members and sub-contractors undertake the same commitment.

13.1.2 The Supplier warrants that it will not, in the performance of the activities related to the Contract, accept nor offer any form of gift, offer, payment or other type of advantage that entails unlawful or corrupt practice.

13.1.3 The Supplier shall avoid conflicts of interest in its contact with organisations and/or persons performing tasks associated with the Work.

13.1.4 The Supplier shall, without undue delay, inform the Buyer if there are indications of any potential breach of the terms of this Contract of which the Supplier becomes aware during the implementation of the Work.

13.1.5 An exporting Party agrees to comply with applicable rules for export control. If a Party performs work, including the export of products, technology and software requiring an export licence, said Party shall apply well in advance for the required licences and ensure that the other Party have access to copies with the Export Control Classification Number (ECCN) at the time of application submission. The Supplier shall indemnify the Buyer for all fines, costs and any and all liabilities that may arise as a result of Suppliers violation of this provision.

### **13.2 Quality Management**

13.2.1 Supplier shall have an implemented and documented system for quality management in accordance with the applicable laws, regulations, and guidelines.

13.2.2 Buyer's Representative and personnel authorised by it shall have the right to undertake quality audits and verification of Supplier's and subcontractors' quality management.

### 13.3 Wages and working conditions

- 13.3.1 Supplier shall ensure that its and any subcontractors' employees who contribute directly to the performance of Supplier's obligations under the Contract do not receive wages or have working conditions that are inferior to those stipulated in the regulations relating to generalized collective wage agreements. In areas not covered by generalized collective wage agreements, Supplier shall ensure that the same employees do not receive wages or have working conditions that are inferior to those stipulated in any applicable nationwide collective wage agreements relating to the relevant trade. This applies to work performed in Norway.
- 13.3.2 All agreements that are entered into by Supplier and that involve the performance of work that contributes directly to the performance of Supplier's obligations under the Contract shall include corresponding terms and conditions.
- 13.3.3 If Supplier fails to meet this obligation, Buyer shall be entitled to retain part of the Contract Price until it has been documented that compliance has been achieved.
- 13.3.4 Supplier shall, at the request of Buyer, disclose documentation relating to the wages and working conditions which are used. Each of Buyer and Supplier may request that the information be submitted to an independent third party appointed by Supplier to examine whether the requirements of this provision have been complied with. Supplier may require the third party to sign a declaration stating that the information will not be used for any other purpose than ensuring compliance with the obligations of the Supplier under this provision. The disclosure obligation shall also apply to subcontractors.

### 14 Delay

- 14.1 Delay occurs when Work prescribed in the Contract has not been completed in accordance with the Contract by a penalty milestone.
- 14.2 If the Work is delayed in relation to the penalty milestones set forth in the Schedule, then Supplier shall pay liquidated damages to Buyer of 0,2 % of the Contract Price per working day of delay, but no less than NOK 1 000 per working day of delay.
- 14.3 Supplier's cumulative liability for liquidated damages under the Contract is limited to 15 % of the Contract Price. If the limit for liquidated damages is reached, the delay shall be regarded as a material breach of the Contract and Buyer shall be entitled to terminate the Contract in accordance with clause 16.1.
- 14.4 Payment of liquidated damages shall under no circumstances be construed or interpreted as a waiver of any rights or remedies that Buyer might have elsewhere under the terms of the Contract, including the rights provided for in clause 4.5 (Schedule) and clause 16 (Termination).

### 15 Defect

- 15.1 If the Goods have a defect when delivered to Buyer or if a defect arises for which Supplier is liable under this warranty in accordance with clause 11 (Warranty) then Supplier is responsible for the

defect in accordance with the provision of this clause 15 (Defect).

- 15.2 Supplier shall rectify the defect without undue delay, but always within reasonable time, at its own cost.
- 15.3 Supplier shall without undue delay notify Buyer of the rectification measures it intends to apply and the intended schedule for the rectification.
- 15.4 Notwithstanding clause 15.3 above, if Supplier cannot rectify a defect within reasonable time, then Buyer shall be entitled to rectify the defect itself or to engage a third party to do so. In such case Supplier shall pay Buyer for the costs related to the rectification.
- 15.5 In addition, Buyer may claim damages for any direct costs and expenses that Buyer has incurred as a result of the defect.

### 16 Termination due to Supplier's Breach

- 16.1 Buyer is entitled to terminate the Contract, in whole or in part, with immediate effect by notifying Supplier in writing when:
  - a. Supplier persistently fails to perform the Work in an efficient, workmanlike, skilful and professional manner, or
  - b. Buyer has become entitled to be paid maximum liquidated damages in accordance with clause 14 (Delay), or
  - c. the progress of the Work is substantially delayed, or
  - d. Supplier is in material breach of the Contract, or
  - e. Supplier becomes insolvent or any proceedings are commenced by or against Supplier under any bankruptcy, insolvency or similar law or Supplier stops its payments, or
  - f. there are material deviations from the obligations set out in clause 13 (HSE, Compliance and Business ethics). The same applies in case of repeated deviations from the obligations set out in clause 13 (HSE, Compliance and Business ethics), if Supplier has failed to implement necessary correcting measures immediately after having received a notification from Buyer.
- 16.2 Upon termination of the Contract, Supplier, unless the notice of termination otherwise directs, shall immediately cease performance of the Work and Buyer shall be entitled to take over from Supplier the Goods, materials, Buyer Provided Items, sub-supplies, documents and other rights or objects necessary to enable Buyer to complete the Goods, either by itself or with the assistance of others. Supplier shall assign to Buyer or any other person designated by Buyer such subcontracts as Buyer may specify. Supplier shall execute and deliver to Buyer such documents and take all such actions as are necessary in order to vest in Buyer all title, rights and other benefits held by Supplier in connection with the performance of the Work. The Delivery Protocol shall be concluded in accordance with clause 9.2 (Delivery). Buyer will not be liable to pay Supplier any damages, compensation or reimbursement for any Work performed or expense incurred by Supplier after the date of termination.

Buyer is entitled either by itself or with the assistance of others, to use Supplier's drawings,

specifications etc. as necessary to complete the Goods.

Supplier is entitled to be paid for the part of the Work completed in accordance with the Contract, less any amounts due from Supplier to Buyer. Supplier shall reimburse Buyer for any additional costs that Buyer may incur in completing or causing the completion of the Work in excess of the costs that would have been payable by Buyer to Supplier if Supplier had not defaulted.

16.3 Buyer's rights set out in this clause 16 (Termination due to Supplier's Breach) shall be without prejudice to any other rights or remedies that Buyer may have under the Contract or applicable law, hereby including but not limited to claims for damages for delay, defects and other breaches of Contract.

### **17 Buyer's Breach of Contract**

17.1 Supplier shall be entitled a corresponding adjustment of the Schedule in accordance with clause 6.3 (Variations to the Work) as a sole remedy for Buyer's delay or defect when providing Buyer Provided Items, in making decisions or in performing other of its obligations under the Contract.

17.2 If Buyer is late in making payments in accordance with clause 10 (Payment terms), then Buyer shall pay interest according to Norwegian Act - "Interest on overdue payment" ("Forsinkelsesrenteloven"), unless such delay in payment is attributable to Supplier.

### **18 Force Majeure**

18.1 Neither of the Parties shall be considered in breach of an obligation under the Contract to the extent the Party can establish that fulfilment of the obligation has been prevented by Force Majeure.

18.2 The Party invoking Force Majeure shall, as soon as possible, notify the other Party of the Force Majeure situation.

18.3 Within 30 Days after the Force Majeure situation has ceased, Supplier shall present its claim, if any, for adjustment of the Schedule in accordance with the provisions of clause 6.3 (Variations to the Work). Each Party shall cover its own costs resulting from the Force Majeure situation.

18.4 If a Force Majeure situation lasts without interruption for 90 Days or more, or it is evident that it will do so, then each Party shall have the right to cancel the Contract by notice to the other Party and the provisions of clause 8 (Cancellation), except for clause 8.4 litra c and d (Cancellation), shall apply.

### **19 Liability and Insurances**

19.1 Loss of or Damage to Buyer Provided Items

19.1.1 Supplier shall be liable for any loss of or damage to the Buyer Provided Items which occurs between the date of receipt of the Buyer Provided Items and the date when the Buyer Provided Items are or should have been returned to Buyer (if applicable), unless such loss or damage can be attributed to Buyer.

19.2 Indemnification. Exclusion of Liability

19.2.1 Supplier shall defend, indemnify and hold Buyer Group harmless from and against any claim concerning:

- a. personal injury to or loss of life of any employee of Supplier Group, and
- b. loss of or damage to any property of Supplier Group,

and arising out of or in connection with the performance of the Work or caused by the Goods in its lifetime. This applies regardless of any form of liability, whether strict or by negligence, in whatever form, on the part of Buyer Group.

19.2.2 Buyer shall defend, indemnify and hold Supplier Group harmless from and against any claim concerning:

- a. personal injury to or loss of life of any employee of Buyer Group, and
- b. loss of or damage to any property of Buyer Group, except as stated in clause 19.1 (Loss of or Damage to Buyer Provided Items),

and arising out of or in connection with the performance of Work or caused by the Goods in its lifetime. This applies regardless of any form of liability whether strict or by negligence, in whatever form, on the part of Supplier Group.

19.2.3 Each of the Parties shall be responsible for and shall defend, indemnify and hold the non-defaulting Party and its Group harmless from and against claims by third parties to the extent such claims are caused by an act or omission of the defaulting Party in connection with this Contract.

19.2.4 Excluding claims for death or injury to either Supplier or Buyer personnel, Supplier shall indemnify and hold Buyer Group harmless from and against any claim of whatsoever nature arising from

- a. pollution occurring on the premises of Supplier Group or caused by the property and equipment of Supplier Group arising from, relating to or in connection with the performance or non-performance of the Contract.

19.2.5 Excluding claims for death or injury to either Supplier or Buyer personnel, Buyer shall indemnify and hold Supplier Group harmless from and against any claim of whatsoever nature arising from pollution occurring on the premises of Buyer Group or caused by the property and equipment of Buyer Group.

19.2.6 Supplier shall indemnify Buyer Group from claims resulting from infringement of patent or other industrial property rights in connection with the Work, or Buyer's use of the Goods. Nevertheless, this does not apply where such an infringement results from the use of drawings, Specifications, Buyer Provided Items or frame agreements that Supplier is instructed to use, process licences nominated by Buyer from third parties or is the result of compliance with an instruction from Buyer.

19.2.7 A Party shall promptly notify the other Party if it receives a claim that the other Party is obliged to indemnify. Whenever possible, the other Party shall take over treatment of the claim.

19.2.8 The Parties shall give each other information and other assistance needed for handling the claim. Neither Party shall, without the consent of the other Party, approve of a claim which shall be indemnified, in whole or in part, by the other Party.

### 19.3 Insurances

19.3.1 Supplier shall, for the duration of the Contract, maintain all insurance coverage to the full extent required by all laws applicable wherever the Work is to be performed and all insurance policies as deemed to be necessary to cover Supplier's liabilities under the Contract.

### 19.4 Limitation and Exclusion of Liability.

19.4.1 Buyer shall indemnify Supplier Group from Buyer Group's own indirect losses, and Supplier shall indemnify Buyer Group from Supplier Group's own indirect losses. This applies regardless of any liability, whether strict or by negligence, in whatever form - regardless of any other provisions of the Contract.

Indirect losses according to this provision include but are not limited to loss of earnings, loss of profit, loss of use, loss of contracts and loss of production.

## 20 Confidentiality

20.1 Information that comes into the possession of the Supplier in connection with the Work and the execution of the Contract shall be kept confidential, and shall not be disclosed to any third party without the consent of Buyer. Supplier shall not use such information other than for purposes specifically stated by the Contract. The confidentiality obligation imposed on Supplier hereunder does not apply to the portion of information, if any, which Supplier can document:

- was public knowledge at the time of receipt or which becomes public knowledge thereafter other than through a breach of confidentiality under the Contract;
- was known by Supplier at time of receipt;
- was independently and lawfully received from a third party without any restrictions on confidentiality; or
- was developed by Supplier independently of the received information.

20.2 Supplier may disclose information to subcontractors who have a documentable need to know the information, in which case Supplier shall ensure that the subcontractors are bound by confidentiality obligations no less stringent than the terms set out herein. Buyer may require Supplier and any of its subcontractors to sign a confidentiality agreement with Buyer. Supplier shall remain responsible and liable for the actions and inactions of the third parties, including subcontractors, to whom it has disclosed information, as though the actions and inactions were those of Supplier itself.

20.3 All information provided by or through Buyer under the Contract is and shall remain the sole and exclusive property of Buyer and shall be immediately returned to Buyer or be destroyed by Supplier, along with all copies thereof, upon termination of the Contract or upon Buyer's request.

20.4 The provisions of this clause 20 (Confidentiality) shall not prevent Supplier from disclosing information as required by applicable laws, regulations, rules and orders, to any governmental or other authority having jurisdiction.

20.5 The confidentiality obligations stated herein shall survive for a period of five (5) years after the end of the Warranty Period stated herein.

## 21 Subcontractors

21.1 Supplier is responsible for its subcontractors being subject to the same contractual terms as Supplier has towards Buyer. If Supplier appoints a subcontractor, Supplier shall remain fully responsible for the part of the Work carried out by subcontractors in the same manner as if Supplier were performing such Work itself.

## 22 Audit

Buyer shall have the right to audit all records relating to the Work. Buyer shall have this right for a period of two (2) years from the date of completion of the Work, and during this period, Supplier shall maintain a complete set of records relevant to all activities associated with Buyer in respect of the Contract. For the avoidance of doubt, Buyer shall not be entitled to investigate the make-up of rates and lump sums included in the Contract except for proper evaluation of the Work.

## 23 Assignment of rights and obligations

Supplier cannot assign or in any other way transfer obligations governed by the Contract to a third party without the prior written consent of Buyer. If Supplier merges or demerges, Buyer has the right to terminate the Contract with immediate effect.

## 24 Advertisements

Supplier must obtain prior written approval from Buyer if Supplier wishes to issue information to the public about the Contract for advertisement purposes or for any other reasons.

## 25 Choice of Law and Dispute Resolution

The Contract and these Terms and Conditions shall be governed by and interpreted in accordance with Norwegian Law. The Parties shall seek to resolve any dispute arising out of or related to the Contract amicably. If the dispute cannot be settled amicably, it shall be settled by court proceedings before the ordinary courts of Norway. Oslo District Court, Norway, shall serve as the agreed legal venue.

## 26 Surviving Provisions

The following provisions shall survive the expiry or termination of this Contract: Clause 12 (Intellectual Property Rights), clause 19 (Liability), clause 20 (Confidentiality), clause 22 (Audits), 24 (Advertisements), clause 25 (Choice of Law and Dispute Resolution) and this clause 26 (Surviving Provisions).