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## 1 GENERAL PROVISIONS

### 1.1 Acceptance of terms

These general conditions for purchase of goods and services shall apply for any and all purchases by any company within the NLI group of companies and take precedence over any alternative terms and conditions in any other document unless such alternative terms and conditions are agreed upon and accepted in writing by Buyer.

Supplier agrees to be bound by and comply with all terms set forth herein and in the Purchase Order to which these terms are attached and/or expressly incorporated by reference.

Acknowledgment of the Purchase Order, including the commencement of work called for under a Purchase Order, shall be deemed an acceptance of the Purchase Order and an acceptance of these terms and conditions.

### 1.2 Definitions

Affiliated Company means any company or incorporated body that (i) is directly or indirectly controlled by a Party, or (ii) directly or indirectly controls a Party, or (iii) is directly or indirectly controlled by a company or incorporated body that also directly or indirectly controls the Party. For the purpose of this definition, "controls" means the right to exercise more than fifty percent (50%) of the voting shares.

Buyer means the NLI entity purchasing Goods, Services or Work from the Supplier or that is stated as such in the Purchase Order or its successors or permitted assigns.

Buyer Group means Buyer and its subcontractors, partners, contractors, agents, consultants, and suppliers and their respective Affiliated Companies and the directors, officers, employees, agents, consultants of all such companies, all to the extent they participate in the performance of the Work.

Delivery Date means the date of delivery of the Work as stated in the Purchase Order or such date as may be varied in accordance with the provisions of the Purchase Order.

Delivery Protocol means the written acceptance by Buyer when delivery has taken place and the Work is delivered to Buyer after the completion of the Work as set forth in the Purchase Order.

Goods means all goods, materials, equipment, items and property of any type, kind or description to be delivered or provided by Supplier pursuant to the drawings, documents, specifications and descriptions in the Purchase Order.

Intellectual Property means all commercial and technical information, including but not limited to all kinds of technology, ideas, know-how, concepts, patented and unpatented inventions and discoveries, patent applications, formulas, processes, procedures, designs, information, drawings, reports, documents, documentation, specifications, plans, models, samples, tools, equipment, computer programs, data, registered and unregistered trademarks, trade secrets, rights, copyrights and other intellectual and proprietary information together with copies of same and irrespective of means of storage.

Party or Parties means Buyer and Supplier individually or collectively.

Purchase Order means the separate contract document, irrespective of whether such a document has the form of a contract document or a purchase order issued by Buyer, these general conditions for purchase of goods and services and any appendices listed in the separate contract document.

Purchase Order Price means the total price specified in the Purchase Order subject to adjustments as set forth in these general conditions for purchase of goods and services and the Purchase Order and which shall constitute full compensation to Supplier for the Work.

Services means all services, design, delivery, installation, inspection, supervision and/or testing specified, performed or required to be performed by Supplier pursuant to the drawings, documents, specifications and descriptions in the Purchase Order.

Supplier means the party supplying, performing or delivering Goods, Services or Work to Buyer or that is stated as such in the Purchase Order or its successors or permitted assigns.

Supplier Group means Supplier and its subcontractors, partners, contractors, agents, consultants, and suppliers and their respective Affiliated Companies and the directors, officers, employees, agents, consultants of all such companies, all to the extent they participate in the performance of the Work.

Third Party means others than the Parties.

Work means Services to be performed and/or Goods to be delivered pursuant to the Purchase Order and drawings and documentation to be provided in connection with such Services and Goods.

### 1.3 The Purchase Order

The Purchase Order constitutes the entire agreement between the Parties and supersedes all prior agreements, promises correspondence, discussions, representations and understandings.

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

- the separate contract document
- these general conditions for purchase of goods and services
- all appendices in the order they are listed in the separate contract document

Other conditions shall not apply to the Purchase Order unless Buyer has accepted these in writing.

#### **1.4 Tendering/bid process and the confirmation of the Purchase Order**

All costs associated with bid preparation and submission of a tender or quotation shall be borne by Supplier. Supplier shall comply with all of Buyer's tender instructions and all deviations from Buyer's inquiry documents shall be clearly specified in writing. Buyer shall at its choosing be entitled to either reject a tender or accept a tender in whole or in part.

Supplier shall in writing confirm its acceptance of a purchase order issued by Buyer. If the acceptance of the purchase order is not received by Buyer within seven (7) days after the date of its issuance, then Buyer will no longer be bound by the purchase order. If Buyer accepts a tender or quotation from Supplier in whole or in part by the issuance of a purchase order or otherwise, then Supplier will be bound by such acceptance upon its receipt.

If Supplier in its confirmation of the purchase order includes reservations or deviations from the purchase order issued by Buyer or Supplier's tender documents deviates from Buyer's inquiry to tender, then such reservations or deviations will only be binding and considered as part of the Purchase Order if explicitly accepted by Buyer in writing. Supplier will be liable for any and all costs Buyer is exposed to due to such reservations and deviations that Buyer has not accepted in writing.

Supplier shall notify Buyer immediately if Buyer's purchase order or inquiry to tender is unclear or otherwise incomplete.

Supplier shall search for defects, errors, non-conformances, discrepancies, and inconsistencies ("Errors") in drawings and specifications and other documents and computer programs submitted by Buyer. Supplier shall, if it discovers any Errors or if Buyer's Purchase Order or inquiry to tender is unclear or otherwise incomplete, immediately notify Buyer of such. If Supplier does not notify Buyer as set forth herein related to issues it has or ought to have discovered and such results in costs for Buyer, then all such costs incurred shall be borne by Supplier.

#### **1.5 Representatives and notification**

Each Party shall appoint a representative with authority to act on its behalf in all matters concerning the Purchase Order. Supplier shall not without Buyer's written consent replace such appointed representatives.

All communication, notices, claims, etc. which the Purchase Order requires to be presented, shall be presented in writing in English or Norwegian and shall be sent by letter, fax or confirmed electronic mail to the other Party's appointed representative.

## **2 GENERAL OBLIGATIONS OF SUPPLIER**

### **2.1 General obligations**

Supplier shall perform the Work with that degree of skill, care, diligence and good judgement normally exercised by recognised professional suppliers performing work of the same or similar nature. Material and equipment provided and incorporated into the Work shall be new and the Work shall in all respects meet and comply with the descriptions, specifications and drawings as set forth in the Purchase Order. The Work shall be of high quality, incorporating first class workmanship and shall be of merchantable quality and fit for its intended purpose.

Supplier shall provide all necessary qualified personnel, materials and equipment, whether of temporary or permanent nature, required for the performance of the Work.

Supplier shall within fourteen (14) days after the acceptance of the Purchase Order present an inspection and test plan that includes witness hold points specifying the time and place for the performance of tests and inspections to allow Buyer to be present during such tests and inspections.

Buyer shall be entitled to obtain necessary information from Supplier and Supplier Group, including but not limited to satisfactory progress reports and other information related to the Work. Buyer is at any time entitled to carry out, and Supplier shall assist Buyer in carrying out, tests, audits and inspections at Supplier Group's premises. Such tests, audits and inspections shall not relieve Supplier from any of its obligations under the Purchase Order.

Supplier shall not subcontract any part of the Work without Buyer's prior written consent. Such consent shall not relieve Supplier of any of its obligations under the Purchase Order.

### **2.2 Compliance with laws and regulations**

The Work shall be performed in compliance with and comply with applicable laws and regulations

(included EU directives, EN norms and standards and regulation of governmental or regulatory body having jurisdiction over the Work). The Work shall be new and performed in accordance with the latest issue of the codes and standards and codes of practice detailed in the specifications or, if none are detailed, in accordance with the latest applicable codes and standards and codes of practice of the industry concerned.

Supplier shall in due time obtain and maintain all approvals and permits which can or must be obtained in the name of Supplier and that are necessary for the performance of the Work, and shall, whenever requested by Buyer, produce documentation showing that necessary approvals and permits have been obtained. Buyer shall provide any necessary assistance in this regard.

Supplier shall ensure that the Work, the manufacturing and installation activities and the tests and inspections are carried out in compliance with any rules in force related to health, safety, environment and working conditions.

Supplier shall have a documented Health, Safety and Environment (HSE) quality program for the work to be performed. Buyer and its customer(s) shall be entitled to perform inspections and audits at the premises of Supplier and any member of Supplier Group to verify the compliance with HSE and quality requirements and the compliance with laws and regulations.

Supplier shall comply with all applicable legislation and regulations regarding the marking and handling of hazardous materials.

**2.3** Without limiting the generality of Article 2.2, Supplier commit to comply with any applicable laws relating to anti-bribery and corruption of any country in which Supplier performs work under this Purchase Order. Supplier represents and agrees that it will not, whether in Norway or abroad (i) directly or indirectly, give or offer any improper advantage to anyone in connection with post, office or commission, or (ii) for himself or anyone else, directly or indirectly, request, receive or accept an offer for an improper advantage in connection with post, office or commission, or (iii) directly or indirectly, give or offer any improper advantage with the purpose of influencing the performance of a post, office or commission, or (iv) for himself or anyone else, directly or indirectly, request, receive or accept an offer for an improper advantage with the purpose of influencing the performance of a post, office or commission. Supplier agrees that any breach of this provision is a material breach of contract.

Supplier shall immediately report to Buyer any act or omission which could possibly be seen as a breach of this Article 2.3. Supplier shall give Buyer access to all documents which in Buyer's sole opinion may be relevant to determine whether such a breach has occurred.

Supplier shall require all of its subcontractors to agree to and comply with contractual provisions substantially identical to those contained in Article 2.2 and 2.3.

#### **2.4 Special requirements for Work performed in Norway**

Supplier is liable for, shall comply with and meet its obligations under the Norwegian Workers Environment Act ("arbeidsmiljøloven"), Norwegian Tax Payment Act ("skattebetalingsloven"), Norwegian National Insurance Act ("folketrygdloven"), Norwegian Tax Assessment Act ("ligningsloven") and other relevant legislation with regard to itself, its employees, contracted personnel and sub-contracts. In particular, Supplier has a duty to make advanced tax deduction and pay employers' national insurance contributions ("arbeidsgiveravgift").

Supplier shall provide such information as is required to the Central Office for Foreign Tax Affairs, Tax Norway West, the Tax Collector for Foreign Tax Affairs and other government organizations if Supplier or its personnel is from outside of Norway. In particular, Supplier shall arrange for any necessary registration in the Central Coordinating Register for Legal Entities ("Enhetsregisteret"), work and residence permits for its own and contracted personnel, and the submission of the information required on the form RF-1199 Information about contracts, contractors and employees and any other reporting to the authorities that may be required at any time.

Supplier shall indemnify Buyer and shall compensate and pay Buyer for any claim Buyer may incur as a result of Supplier's failure to comply with laws and regulations in connection with Supplier's personnel or otherwise.

**2.5** Supplier undertakes to ensure that Supplier Group's personnel have the wage terms set out in and in accordance with the Norwegian Workers Environment Act ("arbeidsmiljøloven"), the Norwegian Civil Servants Act ("tjenestemannsloven"), the Norwegian General Application Act ("allmenngjøringsloven") and the Public Procurement Act ("lov om offentlige anskaffelser") and their accompanying regulations when such laws are applicable. Supplier undertakes to provide on request information and documentation on wages and working conditions for its employees and the employees of any subcontractors for all links in the contract chain.

If Buyer through the Purchase Order contracts personnel from Supplier, then Supplier undertakes to apply for exemption from Buyer's joint and several liabilities pursuant to the provisions of section 4-1

(2) and (3) of the Norwegian Tax Payment Act. Supplier shall indemnify Buyer and shall compensate and pay Buyer for any claim Buyer may incur as a result of Supplier's failure to comply with regulations in connection with the contracted personnel.

**2.6** Non-compliance with Article 2.4 and 2.5 shall be considered a material breach of contract by Supplier and entitle Buyer to withhold payment and/or immediately make draw-down on letter of credit or bank guarantee issued by Supplier to Buyer.

### **2.7 Supplier's obligations towards Buyer's customers**

Supplier acknowledges and accepts that Buyer, at its discretion, may instruct that the following shall apply:

- (i) the Purchase Order is to be assigned to Buyer's customer and/or Buyer's customer's client,
- (ii) Supplier is to be included in the indemnification and exclusion of liability clauses under Buyer's contracts,
- (iii) title to the Work shall pass to and be the property of Buyer's customer,
- (iv) that the rights to and in Intellectual Property under the Purchase Order is to vest in Buyer's customer,
- (v) additional auditing rights, including but not limited to, audits related to quality management, health, safety and environment, technical audits and audit of financial records, and
- (vi) Buyer's customer shall have the right to make claims directly towards Supplier for warranties under the Purchase Order.

### **2.8 Performance of the Work**

All the Work shall comply with the descriptions, specifications, drawings and other requirements set forth in the Purchase Order.

Supplier shall have an implemented and documented quality system, hereunder systems that fulfil Buyer's standard requirements relating to the control and monitoring of safety, occupational health and working environment issues, and procedures, including management control systems, to prevent Supplier's employees, personnel, agents and/or contractors from doing or omitting anything which could be considered a breach of Articles 2.2 and 2.3.

**2.9** 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. Buyer shall not be deemed to be the employer of Supplier's personnel, even if such personnel are to perform all or parts of the Work in co-operation with Buyer

**2.10** Replacement of key personnel in Supplier's organisation is conditional upon Buyer's prior written approval. Such approval shall not be unreasonably withheld.

**2.11** Supplier shall, at his own expense, immediately replace personnel who in Buyer's sole opinion conduct themselves in an improper manner or are considered unsuitable to perform the Work.

**2.12** Supplier shall, when work is carried out at Buyer Group's or Third Parties' premises, comply with any rules in force relating to health, safety and working conditions at such premises. Buyer will, when required and upon Supplier's request, inform of rules that apply to Buyer Group's premises.

**2.13** Supplier shall search for Errors in drawings, documents, specifications and other technical documents and computer programs submitted by Buyer. Supplier shall, if it discovers any Errors, without undue delay notify Buyer of any such Errors discovered. If Supplier does not notify Buyer of an Error it has discovered or ought to have discovered by such examination and such result in costs for Buyer, then all such costs incurred shall be borne by Supplier.

**2.14** Supplier shall ensure that the Work complies with all requirements set forth in applicable laws and regulations and, to the extent that they contain toxic, corrosive or hazardous materials, ensure that each consignment has notices with appropriate care and handling instructions.

**2.15** Supplier shall provide such approvals and licences required for the utilization of the Work.

**2.16** Supplier shall upon Buyer's request provide certificate of origin, proof of origin, origin declaration and/or EUR.1/EUR.MED to Buyer.

**2.17** Buyer's inspection and approval of drawings, goods or samples shall not relieve Supplier from its contractual obligations. Failure by Buyer to inspect or detect defects shall not relieve Supplier from any of its obligations under the Purchase Order.

### **2.18 Buyer provided items**

If Buyer issues materials or items free of charge to Supplier that is to be incorporated into or used in connection with the Work (buyer provided items), then such buyer provided items shall remain the property of Buyer. Supplier shall have the risk of loss and care of buyer provided items and maintain them in good order and condition and solely use them in connection with the Purchase Order. The costs related to receipt, insurance, maintenance, handling, storage, preservation or the replacement or repair due to damage to or loss of buyer provided items shall be borne by Supplier.



Supplier shall keep buyer provided items separate from other goods and material and clearly marked as property of Buyer and free of any liens.

Supplier shall upon receipt of buyer provided items inspect the buyer provided items and within three (3) working days after receipt of the buyer provided items notify Buyer of any Errors discovered. If Supplier has not notified Buyer of Errors it has or ought to have discovered under the inspection, then all costs incurred by Buyer due to such Errors shall be borne by Supplier.

### **2.19 Human Rights, transparency and compliance**

The Supplier is required to comply with universal and fundamental human rights (UN: The International Covenant on Civil and Political Rights of 1966) and decent working conditions (the ILO Conventions) and to ensure such compliance in its supply chains.

Upon request, the Supplier shall grant the Customer access to perform a due diligence regarding the compliance as such.

## **3 OBLIGATIONS OF BUYER**

**3.1** Buyer shall provide such items, information, drawings and documentation as set forth in the Purchase Order to be provided by Buyer. But, Supplier shall ensure that it has received all items, information, drawings and documentation required for the fulfilment of its obligations under the Purchase Order.

**3.2** Buyer shall ensure that Supplier is given necessary access to work sites when Work is performed at Buyer Group's facilities.

**3.3** Buyer shall obtain and maintain approvals and permits that must be obtained in the name of Buyer. Supplier shall provide any necessary assistance in this regard.

## **4 INSPECTION AND TESTING DURING MANUFACTURING**

**4.1** Supplier shall perform all inspections and tests as set forth in the Purchase Order. Buyer and its representatives is at any time entitled to carry out and shall at all times be granted access to any premises of Supplier Group and be allowed to inspect, audit and test the Work. Supplier shall assist Buyer in carrying out such inspections, tests and audits.

Supplier shall in due time notify Buyer in writing before any part of the Work is covered up or made inaccessible. Supplier shall bear all costs of uncovering for control, inspection and testing if Supplier fails to give such notice.

Supplier shall in a timely manner inform Buyer of inspections and tests to be carried out by Supplier to allow Buyer to be present and witness such test and inspections.

**4.2** Supplier Group shall, at Supplier's expense, make available all tools, instruments, apparatus facilities, services and materials necessary for carrying out of tests and inspections of the Work as specified in the Purchase Order or requested by Buyer.

**4.3** Buyer and its representatives shall have full power to reject the Work or any parts thereof that is considered to be defective or inferior in quality of material, workmanship or design or otherwise not in accordance with the Purchase Order. Supplier shall at its expense immediately replace or correct any Work rejected to ascertain compliance with and that the Work meets the requirements and standards set by the Purchase Order.

**4.4** Witnessing or performance of inspections, tests and audits or giving acceptance of the Work or any part thereof or any waiver by Buyer of any rights in this respect, shall not relieve Supplier of any of its obligations under the Purchase Order.

## **5 INSPECTION AND TESTING UPON DELIVERY**

**5.1** Supplier shall perform all tests and inspections as set forth in the Purchase Order. Acceptance tests and inspections provided for in the Purchase Order shall, unless otherwise agreed, be carried out at the place of manufacture and/or installation during normal working hours prior to delivery. Supplier shall provide all tools, equipment, consumables, labour or other assistance necessary for the carrying out of the tests and inspections.

If the Purchase Order does not specify any required tests and inspections or the technical requirements for such tests and inspections, then the tests and inspections shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the country of manufacture and/or installation.

**5.2** Supplier shall, if the acceptance tests and inspections show the Work not to be in accordance or compliance with the requirements of the Purchase Order, without undue delay remedy the deficiencies, non-conformances or non-compliances in order to ensure that the Work complies with the Purchase Order. New tests and inspections shall be performed to ascertain compliance with the requirements of the Purchase Order.

**5.3** Upon the successful completion of the testing and inspection activities, the Parties shall sign a test and inspection protocol verifying the results of the tests and inspections. If Buyer has not witnessed the testing and inspections, then such test and inspection protocol shall solely be signed by Supplier.

Supplier shall within three (3) days after the completion of the testing and inspection activities issue a test and inspection report. **5.4** Supplier shall bear all costs of acquiring acceptance of the Work. Buyer shall, with exception of costs imposed due to new or repeated tests and inspection due to deficiencies, non-conformances or non-compliances, cover travel and living expenses for its representatives being present during tests and inspections.

**5.5** Witnessing test and inspections, the signing of test and inspection protocols or giving acceptance of the Work or any part thereof shall not relieve Supplier of any of its obligations under the Purchase Order.

## 6 DRAWINGS DOCUMENTS AND DESCRIPTIONS

**6.1** All information, drawings, documents, documentation, specifications and computer programs relating to the Work or its manufacture, installation and use submitted by one Party to the other prior to the formation of the Purchase Order, shall remain the property of the submitting Party. But, regardless of the above, such shall be the property of Buyer if paid for by Buyer. The same applies to copies of such material.

**6.2** All information, drawings, documents, documentation, specifications and computer programs relating to the Work or its manufacture, installation or use created subsequent to the formation of the Purchase Order, shall be the property of Buyer. The same applies to copies of such material.

**6.3** Supplier shall, no later than the date of delivery, provide to Buyer drawings showing the as-built status of the Work and drawings and information required for the utilization, erection, commissioning, operation and maintenance of the Work.

## 7 PROGRESS

**7.1** Time is of the essence. Delivery of the Work shall take place in accordance with the agreed schedule in the Purchase Order.

**7.2** Supplier shall notify Buyer immediately if it has cause to believe that it will not be able to perform the Work in accordance with the schedule in the Purchase Order. Supplier shall present the reason for the delay, the effect on the schedule and furthermore include a proposal on how the delay can be minimised.

**7.3** Supplier shall at its own costs take measures as required to minimize delays.

**7.4** Supplier shall be liable for all costs and losses imposed on Buyer and that Buyer could have avoided if Supplier had notified Buyer of the delay in a timely manner.

**7.5** If the Parties instead of specifying the date of delivery have specified a period of time for or until delivery is to take place, then such period shall start to run from the issuance of the Purchase Order by Buyer.

**7.6** Supplier shall within two (2) weeks after the entering into of the Purchase Order present a detailed schedule for the performance of the Work. Supplier shall present progress reports with a forecast for each activity on the schedule with an emphasis on critical activities and parts. Progress reports shall be presented monthly unless requested more frequent by Buyer.

## 8 TERMS OF DELIVERY

**8.1** Supplier shall notify Buyer when the Work is completed, has passed the required tests and inspections and is ready for delivery. Supplier shall not deliver the Work before receiving a written release from Buyer by Buyer's signing of the Delivery Protocol. The Delivery Protocol shall be concluded even if minor parts of the Work are incomplete, provided that they do not have practical significance for the use of the Work. The Delivery Protocol shall identify the incomplete items and information concerning their completion. All documentation shall be received and approved by Buyer prior to delivery.

Supplier shall, if Buyer is responsible for transportation, in good time prior to dispatch, request dispatch instructions from Buyer. If Supplier is responsible for the transportation, Supplier shall, as soon as possible, but no later than the date of dispatch, send an advance notice advising of dispatch so that Buyer may make preparations for receipt of the Work.

Supplier shall ensure that the Work is properly packed, secured and labelled in accordance with good industry practice to avoid loss or damage whilst in transport and to meet Buyer's requirements set forth in the Purchase Order.

**8.2** INCOTERMS 2010 shall apply to the agreed type of delivery set forth in the Purchase Order. Unless otherwise agreed in the Purchase Order, the delivery of the Work will be Delivered Duty Paid (DDP) Buyer's premises.

Partial deliveries shall not be accepted and cannot be considered as partial fulfilment of Supplier's obligations under the Purchase Order unless such is explicitly accepted in writing by Buyer.

Supplier has under no circumstances right to retain the delivery of the Work. This applies even if there is a dispute between the Parties.

**8.3** The Work shall be duly marked as set forth in the Purchase Order with the Purchase Order number and be in accordance with the packing lists where each item in the packing list corresponds to the Purchase Order with respect to item number, part number, description of the Work and specification and any certificates and other documents specified in the Purchase Order that shall be delivered together with the Work. Delivery will not be accepted by Buyer before all documentation is received by Buyer.

Delivery is conditional upon that all agreed testing and installation activities are completed and accepted by Buyer.

#### **8.4 Title to the Work**

The title or ownership to the Work and the results thereof shall pass to Buyer as and when it is performed. The Work shall be free of liens and retention rights other than those for which Buyer is responsible, but shall remain at Supplier's risk (risk of loss and damage) until the later of the signing of the Delivery Protocol, delivery or the passage of risk of loss per the agreed INCOTERMS 2010 term.

Title to material to be incorporated into the Work shall pass to Buyer upon payment or arrival on site, whichever occurs first.

During the performance of the Work and upon delivery, the Work and materials owned by Buyer shall be clearly identified as Buyer's property and be free of liens or retentions other than those Buyer is responsible.

Title to the Work shall immediately re-transfer to Supplier upon termination if Buyer so requests.

#### **8.5 Risk of loss to the Work**

Risk of loss to the Work, included buyer provided items, shall pass to Buyer upon the signing of the Delivery Protocol, upon delivery or per the agreed INCOTERMS 2010, whichever occurs last.

Supplier shall promptly make good at his own cost any loss or damage, howsoever caused, to the Work or buyer provided items prior to the risk of loss therein has passed to Buyer.

## **9 VARIATIONS, SUSPENSION AND TERMINATION**

### **9.1 Variations**

Buyer has the right to order such variations to the Work as in Buyer's opinion are desirable. Variations to the Work may include an increase or decrease in the quantity, or a change in character, quality, kind or execution of the Work or any part thereof, as well as changes to the schedule.

Supplier shall without undue delay notify Buyer in writing when it is entitled to a variation. Supplier will have waived its right to a variation if such notification is not received in a timely manner or Buyer has not within reasonable time thereafter and prior to the commencement of such work in writing received a claim regarding the effect on price and/or schedule such variation represents.

Supplier shall without undue delay after Buyer has required or requested a variation submit to Buyer a written confirmation describing the variation to the Work together with an estimate of any effects the variation will have on the Purchase Order Price, the schedule and the technical specifications. Supplier shall be considered to have accepted the variation without any effect on price or schedule if Buyer has not received such estimate in a timely manner.

Compensation for variations shall be in accordance with the prices, norms and rates contained in the Purchase Order, or otherwise in accordance with the original price level of the Purchase Order. Buyer shall be credited if a variation entails cost saving for Supplier.

Disagreement regarding if Supplier is entitled to a variation or the effects of a variation (compensation, schedule or others related to a variation) shall not entitle Supplier to withhold delivery and Supplier shall implement such variation without awaiting the final outcome of a disagreement or dispute.

### **9.2 Suspension for convenience**

Buyer may temporarily suspend the performance and delivery of the Work, or parts thereof, by giving notice to Supplier. Supplier shall, without undue delay following such notification, inform Buyer of the effects the suspension will have on the performance of the Work.

Supplier shall, upon notification from Buyer, immediately resume the Work.

Supplier is entitled to terminate the Purchase Order for that part of the Work which has been suspended for a period exceeding ninety (90) days by giving Buyer a seven (7) days written notice. If Buyer has not ordered resumption of the suspended Work within seven (7) days of receipt of such notice, then the provisions of Article 9.3 apply accordingly for the suspended Work.



Buyer will during the suspension period only compensate Supplier documented and necessary expenses incurred due to demobilisation and mobilisation of personnel and the preservation of the Work.

### **9.3 Cancellation – Termination for convenience**

Buyer may for its convenience terminate the Purchase Order and cancel the Work or parts thereof with immediate effect by written notification to Supplier.

Supplier shall, save for termination due prolonged force majeure or Supplier's breach of contract, be entitled to the unpaid balance due to Supplier for that part of the Work already performed, and to be compensated expenses incurred as a direct result of or in connection with the termination.

Supplier shall upon receipt of such notice immediately cease performance of the Work, and, in accordance with Buyer's instructions, deliver and transfer any Work, all material and supplies together with drawings, specifications and plans and drawings reflecting the as-built status of the Work at the time of termination. Supplier shall, upon instructions from Buyer, either cancel or assign to Buyer the outstanding orders and subcontracts.

## **10 PAYMENT**

**10.1** Unless otherwise agreed, payment shall be made within forty-five (45) days after receipt of correct invoice upon delivery.

Supplier shall, if advance payments are agreed upon, provide an irrevocable on demand bank guarantee issued by a bank and in a format acceptable to Buyer for the corresponding amount valid until three (3) months after the Delivery Date.

Supplier shall provide a performance guarantee. The performance guarantee shall be an irrevocable unconditional on demand bank guarantee issued by a bank and in a format acceptable to Buyer amounting to ten percent (10%) of the Purchase Order Price. The performance guarantee shall upon delivery be reduced to five percent (5%) of the Purchase Order Price. The performance guarantee shall be valid until three (3) months after the expiry of the warranty period or Supplier has complied with all of its obligations under the Purchase Order, whichever occurs last. The performance guarantee shall be increased to reflect the increased Purchase Order Price due to variations.

Supplier shall upon Buyer's request present a parent company guarantee acceptable to Buyer where Supplier's ultimate parent company guarantees for Suppliers fulfilment of the Purchase Order.

Buyer shall not be obliged to make any payments under the Purchase Order until all the required guarantees are received by Buyer.

If Supplier delivers earlier than agreed, the starting point for calculating the payment date shall be the agreed delivery date in the Purchase Order.

**10.2** All financial settlements, billings and reports rendered to Buyer shall properly reflect the facts about all activities and transactions handled for the account of Buyer. The data will be relied upon as being complete and accurate and be used in Buyer's recordings and reporting.

**10.3** The Purchase Order number and other agreed references for payment 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 or in other ways are considered incorrect.

**10.4** Buyer is entitled to deduct any prepayments, disputed amounts, claims, damages and accrued liquidated damages related to the performance of the Purchase Order against Supplier's invoices.

Supplier warrants that the Work is free from any liens, attachments, charges, encumbrances, claims, or the like, and undertakes to hold harmless, defend, and indemnify Buyer from and against any claims related thereto. Buyer is entitled to retain any amounts under the Purchase Order if the Work is not free from such liens, attachments, charges, encumbrances or claims.

**10.5** Supplier shall invoice the Purchase Order Price or submit the final invoice if a payment schedule is agreed upon within sixty (60) days after Buyer has signed the Delivery Protocol. The invoice (final invoice if a payment schedule is agreed upon) shall include the Purchase Order Price (or the remaining unpaid portions thereof if a payment schedule is agreed upon), all variations and claims Supplier has towards Buyer under or that relate to the Purchase Order. Supplier waives the right to, and shall be precluded from the later presentation of amounts or claims not included in the invoice (final invoice if a payment schedule is agreed upon).

**10.6** All prices included in the Purchase Order and the Purchase Order Price is fixed and shall not be adjusted unless expressly agreed otherwise.

**10.7** If Buyer has accepted that Supplier is to perform Work under the Purchase Order on a reimbursable basis, then the right to invoice such reimbursable work is conditional upon that Buyer has been given reasonable opportunity to control all documentation for which the invoice is based and the amount to be invoiced prior to the issuance of the invoice. Buyer is entitled to audit Supplier Group's premises regarding all payments for reimbursable work for up to two years after receipt of the final invoice.

If prices are to be varied based on quantities or hours consumed, then Buyer's approval of quantities or hours consumed is required prior to the issuance of an invoice.

**10.8** Failure to provide evidence that taxes and other levies have been paid in accordance with applicable law shall entitle Buyer to withhold payment until Supplier provides evidence or satisfactory security for payment of such taxes.

**10.9** No payment shall constitute any admission or acceptance by Buyer as to the performance of Supplier under the Purchase Order.

**10.10** All prices are included VAT (including Norwegian sales tax (MVA)), taxes, import and export duties, customs and excise duties or other sales, use, excise, gross receipt or similar taxes or charges applicable or related to the performance and sale of the Work.

## 11 BREACH OF CONTRACT

### 11.1 Schedule and delivery

The delivery of the Work shall take place in accordance with the agreed schedule during normal working hours. Buyer shall have the right to take delivery of the Work upon payment of undisputed past due amounts under the Purchase Order.

Supplier is obliged to strictly comply with the delivery dates stated in the Purchase Order, and shall notify Buyer immediately of any actual or presumed delays in schedule or delivery.

Delay exists when Supplier fails to comply with the schedule given in the Purchase Order.

If Supplier's performances of the Work or the Work have such defects that Buyer's intended purpose with the Work is substantially unsuccessful or the agreed tests and inspections are not performed or successfully completed, then the Work shall not be considered as delivered, but in delay.

### 11.2 Effects of delay

Should completion or delivery of the Work be delayed beyond the Delivery Date or a milestone set forth in the Purchase Order is not timely met, then liquidated damages shall accrue at a rate of one half of one percent (0.5%) of the total Purchase Order Price per calendar day by which the Work or part thereof is delayed. Liquidated damages shall not exceed twenty percent (20%) of the Purchase Order Price. However, the Parties agree that Buyer in addition to liquidated damages shall be entitled to recover any documented additional costs and damages that Buyer incurs as a result of Supplier's delay exceeding forty (40) days.

Buyer shall, if the Work is not ready for delivery on the Delivery Date, be entitled to take possession of and move the Work in order to avoid inflicting delay on other work of Buyer. Liquidated damages shall in such cases be calculated from an assessment of days the Work was behind the agreed schedule for the delivery of the Work at the date of removal. Buyer shall in addition to liquidated damages and recovery for additional costs and damages, at its discretion, be entitled to a reduction of the Purchase Order Price reflecting the value of the outstanding Work, to be compensated the costs related to the completion of the Work or require that Supplier complete the Work at its own risk and cost at the location where the Work is moved.

### 11.3 Warranty obligations

Supplier warrants that all parts of the Work shall: (i) comply with all applicable laws and regulations; (ii) be provided in an efficient manner, in accordance with the specifications, or in absence of specifications, in accordance with best international standards of the industry; (iii) be free of any charge, encumbrance, lien and claim of any nature; (iv) be of merchantable quality, free from defects in material and workmanship and fit for the purpose intended; and (v) be new and not used or refurbished. The signing of the Delivery Protocol does not relieve Supplier from any of its obligations under the Purchase Order.

Supplier shall be liable for any and all defects that arise or occur within forty-eight (48) months after Buyer has signed the Delivery Protocol, or thirty-six (36) months after installation or taken into use by Buyer's customer, whichever occurs latest (the "Base Warranty Period").

Any re-performed Work under the warranty period shall carry warranties on the same terms as set forth above, except that the applicable warranty period for the re-performed Work shall be for the longer of:

- (i) the remainder of the Base Warranty Period, or
- (ii) twenty-four (24) months from the date of such re-performance.

In the event that the Work is out of function for a period due to Supplier's default, the warranty period shall be prolonged correspondingly.

Supplier shall, if the Work contains any item(s) similar to a defective item, upon Buyer's request inspect all such similar items and repair or replace them at its own cost if any defect or deficiency is found.

**11.4** Supplier shall without undue delay for Supplier's account and risk commence with the rectification of a defect when Buyer notifies Supplier of a defect. The rectification work shall be postponed upon

Buyer's request.

Buyer is entitled to rectify or remedy the defect itself or to engage a Third Party to do so if Supplier cannot or does not rectify a defect within a reasonable time after being notified of it. In such case Supplier shall pay the necessary costs of rectification, provided Buyer acts in a diligent manner. The same shall apply if awaiting Supplier's remedy will cause inconvenience to Buyer or its customers.

The Work will be remedied by Supplier at the place where the Work is located unless instructed otherwise by Buyer. If Buyer, upon Supplier's request, accepts that the remedying of defects is to be performed elsewhere, then risk of loss will pass to Supplier and Supplier shall at its expense and risk provide for necessary transportation and insurance of the Work or parts thereof in connection with the remedying of defects.

Supplier will be responsible and liable for the dismantling or removal of the defective Work and re-installation after the defective Work is remedied (including dismantling and reassembly of others than the Work if required to access the Work).

Buyer may terminate the Purchase Order or parts of the Work if the defect as such constitutes a material breach of contract or the Purchase Order or Supplier is not able to rectify a defect within a reasonable period set by Buyer. Buyer shall in such cases be entitled to compensation for damages and losses suffered.

Supplier shall compensate Buyer all costs and losses accrued due to a defect.

#### **11.5 Termination due to Supplier's breach of contract**

Buyer is entitled to terminate the Purchase Order or parts of the Work with immediate effect if the maximum liquidated damages have incurred or is likely to incur, Supplier ceases to conduct its normal course of business, proceedings under bankruptcy or in solvency laws is brought by or against Supplier or Supplier in any other way is in or is likely to become in material breach of contract.

Buyer shall upon termination be entitled to take over any sub-contracts, take possession of all completed Work, Work in process, including design, drawings, documents, documentation, specifications and other technical documents and computer programs and material required or produced in connection with the Purchase Order and title thereto shall vest in Buyer. Buyer shall furthermore be entitled to, by itself or through a Third Party, to use Supplier's facilities, premises, sites, equipment, tools, drawings etc. as necessary to complete the Work.

Supplier shall upon termination of the Purchase Order deliver to Buyer all of Buyer's Intellectual Property and confidential information

Buyer shall upon terminations due to Supplier's breach of contract be entitled to withhold any amounts due to Supplier and claim compensation for damages and losses suffered.

#### **11.6 Liability according to law**

In addition to the foregoing, Buyer shall be entitled to claim damages according to law.

## **12 FORCE MAJEURE**

**12.1** Force majeure means 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 Purchase Order and could not reasonably have avoided it or overcome its consequences. This includes, but is not limited to acts of God, act of public enemy, war blockage, strike on a national level, riot, lightning, fire, storm, flood, explosion and government restriction.

**12.2** A Party shall not be considered in breach of the Purchase Order to the extent it is proven that it was unable to fulfil its contractual obligations due to force majeure. Each Party shall cover its own costs resulting from force majeure.

**12.3** 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.

**12.4** Each Party shall be entitled to terminate the Purchase Order in the event that a single force majeure event continues for more than ninety (90) days. Buyer shall upon such termination pay the unpaid balance for Work performed and be entitled to take delivery of the Work performed and in progress and materials, drawings, specifications etc. related to or intended for the Work.

## **13 INDEMNIFICATION**

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

- (i) personal injury to or loss of life of any employee of Supplier Group,
- (ii) loss of or damage to any property of Supplier Group, and
- (iii) costs resulting from the requirements of public authorities in connection with buoying, lighting, raising

and removal of wrecks, or pollution from vessels or other floating devices, arising out of or in connection with the Work or caused by the Work 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.

**13.2** Buyer shall defend, indemnify and hold harmless Supplier from and against any claim concerning:

(i) personal injury to or loss of life of any employee of Buyer, and  
(ii) loss of or damage to any property of Buyer except for buyer provided items and the Work, arising out of or in connection with the Work. This applies regardless of any form of liability, whether strict or by negligence, in whatever form, on the part of Supplier.

**13.3** Each Party (in such case, the indemnifying party) shall defend, indemnify and assume the risk of and save harmless the other Party (in such case, the indemnified party) for all claims and damages, including attorney's fees and litigation costs, for injury or death to Third Parties person or damage to Third Parties property to the extent the indemnifying party is liable to such Third Party under applicable law.

Buyer's obligation to indemnify Supplier under this Article 13.3 shall not apply to the extent Article 13.1 or other provisions of the Purchase Order sets forth that Supplier has the liability for or is to indemnify Buyer Group for such claims and damages.

**13.4** 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. 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.

**13.5** Supplier must use all reasonable endeavours to perform the Work in a manner that will prevent pollution and Supplier will be liable for, indemnify and hold harmless Buyer Group from and against any claims, losses, damages, costs and liabilities associated with, related to or arising out of Supplier Group's disposals of pollutant substances, articles, gases or liquids under the performance of the Work. Furthermore, Supplier is liable for all costs of control or removal of any and all debris, spills or discharges of fuels, lubricants, motor oils, paints solvents, garbage and any other materials in Supplier Group's possession and control and directly associated with Supplier Group's equipment and facilities and performance of the Work.

**13.6** Supplier warrants that neither Supplier's performance of the Work, nor Buyer's use of the Work or results thereof will cause an infringement of Intellectual Property rights. Supplier shall indemnify and hold harmless Buyer and Buyer Group and their representatives from and against any claims, losses, damages, costs, including attorney's fees, and liabilities associated with, related to or arising out of any actual or alleged infringement of Third Party Intellectual Property rights, except when this is a consequence of Buyer's specifications and Supplier did not know or ought to have known that such an infringement would occur.

**13.7** Buyer shall indemnify Supplier from Buyer'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, on the part of either of the parties groups and regardless of any other provisions of the Purchase Order. Indirect losses according to this provision include but are not limited to loss of earnings, loss of profit and loss of production.

## 14 INSURANCE

**14.1** Supplier shall at his own expense insure the Work and buyer provided items and provide and maintain all necessary insurances required for and adapted to Supplier's operations for the performance of the Work, such as, but not limited to, personnel insurance which shall cover losses connected to illness, personal injury or accidental death in Supplier Group to the extent required by applicable laws or by the provisions, if any, of the Purchase Order.

Supplier shall further more procure and maintain at his own expense liability insurance adapted to Supplier's operations and the nature of the Work. Unless otherwise agreed, such liability insurance shall cover liability for a minimum amount of NOK 10,000,000 (ten million Norwegian kroner) for each occurrence for damage caused to Buyer Group's or any Third Party's property or person in connection with the Work or the Purchase Order.

Supplier shall ensure that the insurance company waives all rights of subrogation against Buyer Group and that Buyer is included as additional insured in Supplier's insurance policies.

Supplier shall present to Buyer insurance certificates documenting that the conditions of this Article 14.1 is fulfilled.

**14.2** The Parties shall render such reasonable assistance to the other as required for the pursuance of an insurance claim.

## 15 INTELLECTUAL PROPERTY RIGHTS, PROPRIETARY RIGHTS AND CONFIDENTIALITY

### 15.1 Intellectual property rights

Buyer and Supplier shall, unless otherwise stated in the Purchase Order, retain any right, title or interest in Intellectual Property it owned or licenced to a Party and that is developed, conceived, acquired or obtained prior to the entering into of the Purchase Order or that a Party has developed outside the scope of any Work performed pursuant to the Purchase Order.

Right to, or title or interest in Intellectual Property developed, conceived, acquired or obtained during the performance of, in connection with or arising out of the Work or as a result of the Work or information provided by Buyer shall vest in Buyer. Such Intellectual Property shall become the sole property of Buyer as and when it is performed, made, prepared or developed.

Supplier shall notify Buyer of any Intellectual Property which shall vest in Buyer and provide necessary assistance to enable Buyer to acquire and register such Intellectual Property.

Buyer's Intellectual Property shall not be used by Supplier for other purposes than the performance of the Work, and shall be returned to Buyer upon the completion of the Work or termination of the Purchase Order. No such material can be copied, used or disclosed to any Third Party without the prior written consent of Buyer. Supplier is aware of that such Intellectual Property and rights of ownership to such may become the property of Buyer's customer.

Buyer and its customer(s) shall be granted an irrevocable, transferable, royalty-free, world-wide and non-exclusive right to use Supplier Group's Intellectual Property when such is necessary for the completion, engineering, procurement, manufacturing, construction, use, operation, maintenance, repair and modification of the Work.

### 15.2 Confidentiality

Supplier shall treat all information exchanged or otherwise transferred between the Parties as confidential and shall not disclose such to any Third Party without the prior written consent of Buyer.

Supplier may only disclose such information to a Third Party to the extent necessary for execution of the Purchase Order provided that the receiver of such information is bound by a confidentiality obligation similar to this Article, or Supplier is required by law to disclose the information.

Supplier shall not without Buyer's written consent, issue any press release or otherwise advertise that this Purchase Order has been entered into.

## 16 ASSIGNMENT OF THE PURCHASE ORDER

**16.1** Buyer is entitled to assign the Purchase Order and any rights and obligations pursuant to the Purchase Order.

**16.2** Supplier may not without Buyer's prior written consent assign the Purchase Order or any rights or obligations thereunder.

## 17 LIMITATION OF LIABILITY

**17.1** Neither Party shall, save for cases of gross negligence or wilful misconduct, be liable to the other for any loss of profit nor anticipated profit, loss of revenues, loss of use, loss of production, interruption of business, cost of capital, downtime costs, increased operating costs, loss of contracts or for any special, indirect, consequential, punitive or exemplary damage that may be suffered by the other.

**17.2** Supplier's total liability for all claims arising out of or relating to the performance or breach of the Purchase Order shall, save for cases of negligence, not exceed two hundred percent (200 %) of the Purchase Order Price. The limitation of Supplier's liability set forth in this Article and elsewhere in the Purchase Order does not apply to liability assumed under Articles 2.2, 2.3 2.4 and 2.5, Article 11 and Article 13.

## 18 NO WAIVER

**18.1** No waiver by Buyer of any breach of any of the terms and conditions of the Purchase Order shall be construed as a waiver of any subsequent breach whether of the same or any other term or condition hereof. No waiver shall be valid unless made in writing.

**18.2** No failure or delay on part of Buyer to exercise any power, right or remedy under the Purchase Order shall operate as a waiver thereof nor shall any single or partial exercise by Buyer of any power, right or remedy preclude any other or further exercise thereof or exercise of any other power, right or remedy.



## 19 APPLICABLE LAW AND LEGAL VENUE

The Purchase Order shall be governed by and interpreted in accordance with Norwegian law.

Disputes arising in connection with or as a result of the Purchase Order, and which are not resolved by mutual agreement, shall be settled by court proceedings unless the parties agree otherwise. Any court proceedings shall be brought before Vestfold district court (No.: Vestfold Tingrett).