

**General Conditions  
of  
Purchase**

**Agility Subsea Fabrication as**

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A	Completely revised document	04.10.2016
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**1. INTRODUCTION**

These General Purchase Conditions shall apply unless other conditions are agreed upon in writing between the PARTIES.

**1.1 DEFINITIONS**

- DAY(S): shall mean consecutive calendar days according to the Gregorian calendar
- PARTY/PARTIES: means BUYER and SELLER individually / BUYER and SELLER collectively
- BUYER: As specified in the PURCHASE ORDER.
- SELLER: As specified in the PURCHASE ORDER
- 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 or overcome it or its consequences.
- COMPLETION CERTIFICATE: means the certificate to be issued by BUYER in accordance with Art. 10 when the GOODS, with the exception of guarantee work, are satisfactorily completed, and are accompanied with all necessary documentation. BUYER may at its discretion waive its obligation to issue a completion certificate.
- CUSTOMER: means the BUYER's customer to whom the GOODS will ultimately be delivered.
- GOODS: means the object(s) and/or the services which the SELLER shall deliver to the BUYER in accordance with the PURCHASE ORDER, together with all parts thereof, including documentation.
- PURCHASE ORDER: means the separate contract document describing the WORK together with any SPECIAL CONDITIONS, these General Purchase Conditions and any appendices and attachments thereto and any signed amendments and variations to said documents.
- PURCHASE PRICE: means the total sum payable to SELLER in accordance with the PURCHASE ORDER and includes any agreed additional or variation work. The PURCHASE PRICE stated in the PURCHASE ORDER shall be considered as fixed, unless expressly agreed otherwise.
- PURCHASE ORDER CONFIRMATION: SELLER shall confirm the PURCHASE ORDER by signing BUYER's PURCHASE ORDER confirmation form. If the PURCHASE ORDER confirmation is received by BUYER later than 7 DAYS after the PURCHASE ORDER date, the PURCHASE ORDER may stand terminated and SELLER is not entitled to claim any compensation for such termination.
- SPECIAL CONDITIONS: The document attached to the PURCHASE ORDER which expressly varies these General Purchase Conditions and which is signed by a duly authorized member of BUYER and SELLER.
- WORK: means all work which SELLER shall perform or cause to be performed in accordance with the PURCHASE ORDER

## 2. INTERPRETATION

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:

- a) PURCHASE ORDER
- b) Any SPECIAL CONDITIONS agreed between the PARTIES and constituted in writing.
- c) These General Purchase Conditions

## 3. GENERAL OBLIGATIONS OF SELLER

- 3.1. SELLER shall ensure that the GOODS comply with standards of good workmanship, the PURCHASE ORDER specifications and applicable laws and regulations, including without limitation laws, rules and regulations pertaining to health, safety and environment, non-discrimination of the workforce, organisation of labour, engineering codes and standards and construction codes and standards. SELLER shall defend, indemnify and hold BUYER harmless from and against all claims, losses, damages, costs and expenses arising out of SELLER's failure to comply with the aforesaid laws, rules and regulations.
- 3.2. The SELLER shall not assign parts of the WORK related to the GOODS without BUYER's written consent. BUYER may assign the PURCHASE ORDER to CUSTOMER. Such assignment does not relieve SELLER from any of its obligations pursuant to the PURCHASE ORDER.
- 3.3. SELLER shall not enter into any sub-subcontract without the prior written consent of BUYER. Such consent is not required for sub-subcontractor listed in Exhibit M to the Frame Agreement.
- 3.4. SELLER shall have the highest importance and priority on health, safety and environment (HSE) during the performance of WORK, and shall have an implemented and documented HSE system in accordance with relevant standards for HSE assurance and quality assurance suitable for the GOODS.
- 3.5. No actions taken by BUYER in consenting, approving, checking, verifying, testing, inspecting or accepting the GOODS shall relieve SELLER from its obligations or liabilities as stated in the PURCHASE ORDER.
- 3.6. Prior to the commencement of WORK, each PARTY shall appoint a representative with authority to act for and on behalf of the respective PARTY. SELLER's representative shall not be replaced without BUYER's written approval, which shall not be unreasonably withheld. The additional cost due to a hand-over period is to be carried by SELLER.
- 3.7. BUYER may instruct SELLER to replace, at SELLER's cost, any personnel engaged in WORK who conduct themselves in an improper manner or are considered unsuitable to perform their tasks. If required by BUYER, SELLER shall meet regularly with BUYER and CUSTOMER to review industrial relation matters (whether as part of a general progress meeting or otherwise).
- 3.8. SELLER shall obtain and maintain authority approvals, permits and other information as is deemed necessary for the performance of WORK and which have to or may be obtained in the name of SELLER.
- 3.9. Any provisions of the BUYER's agreement with CUSTOMER, which are necessary to enable BUYER to fulfil his obligations in accordance with the agreement with CUSTOMER, shall apply accordingly between the PARTIES, if the SELLER's GOODS are part of BUYER's obligation towards CUSTOMER.

## 4. BUYER PROVIDED DOCUMENTS AND ITEMS

SELLER shall search for defects, discrepancies and inconsistencies ("errors") in the drawings, specifications and other documents or data programs submitted by BUYER. SELLER shall without undue delay notify BUYER of any such "errors" discovered. If SELLER does not notify BUYER of an "error" that he has discovered, or ought to have discovered by such examinations, and as a result, BUYER incurs direct extra costs which are not covered by insurance, or loses rights or guarantees, then all such direct costs incurred shall be borne by SELLER.

## 5. QUALITY MANAGEMENT AND HSE

### 5.1 QUALITY SYSTEM

SELLER shall have a documented and implemented quality system complying with the NS-EN ISO 9001:2008 or equal.

SELLER shall ensure that his subcontractors have implemented and comply with these quality assurance requirements.

BUYER may request a quality plan, inspection and test plan (ITP), to be established for the manufacturing process of the SELLER and any subcontractors. The quality plan shall demonstrate how quality is assured for the product during the manufacturing process. The quality plan shall describe activities and verification on how activities will be carried out, in order for BUYER to identify hold and witness points for required verification including any intervention points from the CUSTOMER. Reference to applicable procedures shall be included.

The SELLER shall keep and maintain quality records of all non-conformances and anomalies and provide for an effective feedback loop to prevent recurrence for the duration of the delivery. In the event that requirements are not met, BUYER may instruct SELLER to perform modifications identified as required and SELLER shall perform at his own cost such modifications as are requested in order to comply with the requirements. Should the SELLER have failed to correct such improper performance of WORK within a reasonable period of time, BUYER shall be entitled, without any discharge of SELLER's obligations, to enforce such corrective actions necessary to meet said requirement.

The SELLER shall provide the BUYER or his nominated representative free and ready access to the SELLER's, or his subcontractors, workshop, stores and offices in connection with the fabrication of the GOODS. Should the BUYER decide to have a site representative present at the SELLER's premises during the fabrication, proper desk space shall be arranged for the site representative. The site representative shall have access to copies of relevant production schedules, and shall be on the distribution list for release of drawings, manuals etc. and progress meetings shall be held on a regular basis between SELLER and BUYER's site representative.

## **5.2 RISK**

Upon request by BUYER, the SELLER shall establish and maintain a risk management system in accordance with the principles and guidelines provided in ISO 31000 Risk Management Guidance Standard or equal.

HSE risk management shall be based on as low as reasonably practical principles (ALARP).

The BUYER reserves the right to perform audits of the SELLER. The SELLER shall, at its own cost, provide reasonable assistance with such audits. The SELLER shall ensure that the BUYER'S same right also apply to all of his subcontractors. The SELLER or his subcontractor, shall immediately correct any non-conformance revealed in such audits, at their own cost.

## **5.3 HEALTH, SAFETY, ENVIRONMENT (HSE)**

The SELLER shall have a system in accordance with ISO 14001 and OHSAS 18001 or equivalent suitable for the scope of supply.

In the event that subcontractors perform parts of the scope of supply, this requirement shall apply accordingly. The SELLER shall ensure that this requirement is specified in the procurement documents towards its subcontractors.

The BUYER reserves the right to perform audits of the SELLER. The SELLER shall, at its own cost, provide reasonable assistance with such audits and ensure that the BUYER'S same rights also apply to all of his subcontractors. The SELLER or his subcontractor, shall immediately correct any non-conformance revealed in such audits, at their own cost.

## **6. TERMS OF PAYMENT**

- 6.1. BUYER shall not reimburse SELLER the PURCHASE PRICE or part of it before full delivery of GOODS and satisfactory performance of same in accord with Article 10. Notwithstanding the above, BUYER will have to right to withhold ten percent (10%) of the PURCHASE PRICE until receipt of all final documentation.
- 6.2. In the event SELLER does not correct non- conformances stated in implementation reviews, quality assurance audits or engineering technical audits within the agreed due dates, then BUYER shall have the right to withhold up to fifteen percent (15%) of the total of each monthly invoiced value until BUYER has verified that the specified corrective actions have been carried out.
- 6.3. BUYER shall make payment within 60 DAYS after receipt of a correct, fully documented and approved invoice, provided that all SELLER's obligations according to the PURCHASE ORDER have been fulfilled, and that a complete delivery has taken place. BUYER may withhold any disputed amounts.

- 6.4. BUYER may deduct from any payment due to SELLER all costs, charges, damages, liquidated sums, expenses and other moneys which are payable by or to be reimbursed by SELLER to BUYER under any provision of the PURCHASE ORDER or otherwise.
- 6.5. Interest on overdue payment shall be payable according to the Norwegian Delayed Payments Act ("Morarenteloven").
- 6.6. If advance payments are agreed upon, SELLER shall provide an, on BUYERS demand, guarantee issued by a bank acceptable to the BUYER in a corresponding amount.
- 6.7. If requested by BUYER, SELLER shall provide a bank guarantee, a parent company guarantee or such other guarantee approved by BUYER. The guarantee shall be provided prior to the first invoice. The bank guarantee shall amount to 10% of the PURCHASE PRICE. The guarantee shall be valid until the expiry of the guarantee period. BUYER will require a parent company guarantee or a bank guarantee when advance payment milestones are included in the PURCHASE ORDER.
- 6.8. If Buyer fails to pay by the stipulated date, SELLER shall as sole remedy for any delay in payment of any undisputed invoice be entitled to interest from the day on which payment was due.
- 6.9. Within sixty (60) DAYS after all WORK, with the exception of warranty work, is completed, SELLER shall submit his proposal to the final account. Claims not included in the proposed final account cannot be submitted later by SELLER. This does not apply to compensation for work performed by SELLER as instructed by BUYER after completion of the WORK.

**7. TITLE/LIEN**

- 7.1. Title to the GOODS shall pass to BUYER progressively as the WORK is being performed, on arrival at site or when paid for by BUYER, whichever occurs first. This relates also to the materials intended to be incorporated into the GOODS.
- 7.2. As soon as materials and, if applicable, BUYER provided items arrive at Site, SELLER shall mark them with an identification number and BUYER's name, and as far as possible keep them separate from other items.
- 7.3. The GOODS and materials meant to be incorporated in the GOODS owned by BUYER as per this article shall be free of liens other than those for which BUYER is responsible.
- 7.4. Upon termination, according to Article 13 and 14, title to GOODS shall immediately re-transfer to SELLER if BUYER so requests.

**8. PACKING LIST/ADVICE NOTE/INVOICE**

- 8.1. Packing lists/advice notes/invoices etc. shall only relate to one PURCHASE ORDER and shall be duly marked according to specifications stated in the PURCHASE ORDER. Packing lists/advice notes and invoices shall be completed so that each item corresponds to the PURCHASE ORDER with respect to item no, GOODS description and specification.
- 8.2. All GOODS shall be duly marked in accordance with packing lists and instructions stated in the PURCHASE ORDER. If the consignment consists of more than one package, each package shall contain a detailed list of contents.
- 8.3. For all deliveries, the GOODS and packing lists/advice notes shall be duly marked with the gross weight.
- 8.4. Any certificates and other documents specified in the PURCHASE ORDER shall be delivered together with the GOODS. These documents are considered to be a part of the delivery, and invoices shall not be paid until they have been received.
- 8.5. If any loss or damage is caused to the GOODS before the risk passes to BUYER, SELLER shall promptly make good any such loss or damage at his own cost.

**9. CERTIFICATES OF ORIGIN/CUSTOMS INVOICES**

- 9.1. In the case of GOODS of EU or EFTA origin, BUYER or any third party specified by BUYER shall be supplied with a certificate of origin and customs invoices.
- 9.2. Costs incurred by BUYER due to lack of certificate of origin or customs invoices shall be charged to SELLER and deducted from the PURCHASE PRICE.

**10. DELIVERY**

- 10.1. Delivery of the WORK shall take place according to the agreed terms of delivery and delivery dates contained in the PURCHASE ORDER. SELLER shall not have the right to withhold the WORK, or any part thereof, as security claims against the BUYER (regardless of any dispute between the PARTIES), and expressly waives all such rights.
- 10.2. Delivery will not be deemed accomplished unless the GOODS:
  - a. Has been satisfactorily completed and passed the tests as specified in the PURCHASE ORDER,
  - b. Is accompanied with all the necessary documentation as defined in the PURCHASE ORDER,
  - c. Is properly packed and secured in such a manner that it will safely reach its destination under adequate conditions of transportation for items of its nature.
  - d. a COMPLETION CERTIFICATE is issued by BUYER
- 10.3. Partial deliveries shall not be accepted and cannot be considered as a partial fulfilment of SELLER'S obligations unless accepted in writing in advance by BUYER.
- 10.4. Unless specified otherwise, delivery shall be DDP (BUYER'S premises) INCOTERMS latest edition.
- 10.5. If the BUYER is responsible for the transportation, the SELLER shall in good time prior to dispatch, request dispatch instructions from the BUYER. If SELLER is responsible for the transportation, it shall as soon as possible, and not later than the date of dispatch, send an advice note advising of dispatch so that BUYER may make preparations for receipt of the GOODS.

**11. DELAY**

- 11.1. Delay occurs when SELLER fails to comply with the time limits stated in the PURCHASE ORDER, unless BUYER causes the delay. Also, if the GOODS have such defects that they are not suitable for their intended purpose, BUYER may elect to treat this as delay.
- 11.2. If delivery is delayed BUYER is entitled to liquidated damages amounting to 0,5% of the total PURCHASE PRICE per commenced DAY. The liquidated damages shall not exceed 15% of the total PURCHASE PRICE.
- 11.3. As soon as SELLER believes, or has grounds for believing, that the delivery will be delayed, it shall immediately notify BUYER in writing of the delay and the cause thereof. SELLER shall furthermore inform BUYER of the measures it will initiate in order to minimize the delay. SELLER shall bear its own costs incurred to minimize the delay unless the delay is not caused by SELLER. SELLER is liable for all losses suffered by BUYER which could have been avoided if SELLER had given notice of the delay in due time.
- 11.4. BUYER may terminate the PURCHASE ORDER if the maximum of liquidated damages have incurred or the delay constitutes a substantial breach of the PURCHASE ORDER.

**12. CHANGES**

- 12.1. BUYER may require variations with regard to the quality, and/or the quantity of the GOODS and/or the delivery date that in BUYER'S opinion is desirable. The BUYER has the right to change the specifications at any time.
- 12.2. When BUYER orders a variation to be performed, SELLER shall without undue delay submit an estimate to BUYER, unless otherwise agreed by the PARTIES. BUYER may require the submission of such estimate prior to ordering the performance of a variation. The estimate shall contain:
  - a. A description of WORK in question under the variation
  - b. A detailed schedule for execution of WORK under the variation showing the required resources and significant milestones,
  - c. The effect on the PURCHASE PRICE, if any, and showing the rates used when preparing the estimate, and
  - d. The effect on the schedule, if any, with documentation demonstrating such effect.
- 12.3. Upon occurrence of an event affecting the schedule, WORK or cost, and to the extent such an event is attributable to BUYER, SELLER may request a variation. SELLER shall as soon as possible but not later than 10 DAYS, inform BUYER in writing of the effects the change. If SELLER fails to provide such information, it shall lose its right to demand a change order.
- 12.4. Upon receipt of an instruction for a variation, SELLER shall implement it without undue delay, even if the effects of the variation have not been agreed. All of SELLER'S obligations under the PURCHASE ORDER shall apply to variations, unless otherwise agreed in writing between the PARTIES.

- 12.5. Decisions taken without BUYER's notice are entirely SELLER's responsibility. Changes or extensions to the scope of supply shall be based on the same rates and prices as set out in this PURCHASE ORDER. For changes, which have no relevant prices established, new rates and prices shall be prepared and agreed, reflecting the general level of pricing prescribed herein.
- 12.6. Hourly rates in the PURCHASE ORDER shall specify normal working hours, overtime hourly rate and any shift allowances. The hourly rates are deemed to be fully inclusive of, but not limited to, necessary tools and equipment, all travel time and costs to and from the normal work location of the personnel, together with all accommodation and subsistence costs at the normal work location of the personnel.
- 12.7. Unless otherwise agreed between the PARTIES, items such as administration, management, organization, facilities, financing, profits and other overhead related costs are included in the PURCHASE PRICE and shall not be compensated in variations of WORK.

### **13. SUSPENSION**

BUYER may temporarily suspend the performance of the WORK, or parts thereof, by giving notice to SELLER.

The notice shall specify which part of the WORK shall be suspended, the effective date of the suspension and the expected date for resumption of the WORK. Furthermore, it shall state the mobilization plan and any support functions which shall be maintained while the WORK is suspended.

SELLER shall resume the WORK after notification by BUYER. The date of resumption of the WORK shall be determined with due consideration of the mobilization plan, and the support functions maintained during the suspension.

BUYER shall compensate SELLER for all necessary expenses arising from:

- a) Demobilization of personnel and equipment, and
- b) Safeguarding the GOODS, BUYER provided items and related materials and equipment, and
- c) Personnel, subcontractors and equipment which must be kept available in accordance with the mobilization plan, and
- d) Moving the GOODS, if necessary, to avoid unreasonable interference with SELLER's other activities, and
- e) Other documented expenses incurred by SELLER as a direct result of suspension of the WORK.

### **14. TERMINATION**

#### **14.1 TERMINATION FOR CONVENIENCE**

BUYER may, by notice to SELLER, terminate the PURCHASE ORDER for any reason. Following termination for convenience, BUYER shall pay the necessary and documented costs directly attributable to, and irrevocable incurred by the termination for convenience.

Upon termination for convenience, SELLER shall, if so requested by BUYER, promptly deliver WORK to BUYER together with copies of the engineering work performed up to the date of termination for convenience, including incomplete documents. SELLER shall similarly deliver one set of drawings marked up to show the actual as-built status for WORK at the time of termination for convenience.

#### **14.2 TERMINATION FOR CAUSE**

BUYER is entitled to terminate the PURCHASE ORDER with immediate effect by notifying SELLER when:

- a) BUYER has become entitled to be paid maximum liquidated damages.
- b) It is evident that delivery of the GOODS will be delayed by more than 15% of the time from start of WORK until the delivery date, or by 90 DAYS whichever is the shorter period, or
- c) SELLER is in substantial breach of the PURCHASE ORDER, or
- d) SELLER becomes insolvent or stops his payments, or
- e) There are substantial deviations from the HSE requirements according to the PURCHASE ORDER.

Upon termination BUYER is entitled to take over from SELLER the GOODS, materials, BUYER provided items, subcontracts, documents and other rights necessary to enable BUYER to complete the GOODS.

BUYER is entitled either by itself or with the assistance of any third party, at BUYER's cost, to use SELLER's Site(s), equipment, tools, drawings, etc. as necessary to complete the GOODS. This only applies when such use is

of a limited duration, and provided further that business secrets, know-how and other information which BUYER or such third party acquire shall be used only for completion of the GOODS.

SELLER is entitled to be paid for the part of the WORK performed and equipment taken over by BUYER, less any amounts due from SELLER to BUYER.

When the PURCHASE ORDER is terminated, BUYER shall also be entitled to present the following claims:

- a) Damages for delay in the form of liquidated damages, calculated on the basis of the number of DAYS by which the delivery date would have been exceeded if SELLER had completed the GOODS.
- b) Damages for defects and other breaches of PURCHASE ORDER.

## **15. INDEMNITIES AND INSURANCES**

For the purpose of this article, "SELLER group" means the SELLER's subcontractors/vendors/affiliates and their respective officers, directors or agents. "BUYER group" means the BUYER, BUYER's subcontractors/vendors/affiliates/CUSTOMER and their respective officers, directors or agents.

- 15.1. SELLER shall indemnify BUYER group from and against any claim concerning:
  - a) Personal injury to or loss of life of any employee of SELLER group, and
  - b) Loss of or damage to any property of SELLER group, arising out of or in connection with the GOODS whether strict or by negligence, in whatever form, on the part of BUYER group.
- 15.2. BUYER shall indemnify SELLER group 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, arising out of or in connection with the GOODS whether strict or by negligence, in whatever form, on the part of SELLER group.
- 15.3. SELLER shall provide and maintain the insurances as required by applicable law and at the least transport, personnel and liability insurance applicable both in the country where the GOODS are produced and delivered.
- 15.4. BUYER shall indemnify SELLER group from BUYER group's own indirect losses, and SELLER shall indemnify BUYER group from SELLER group's own indirect losses. This applies regardless of any liability, whether strict or by negligence, in whatever form, on the part of either group 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.
- 15.5. SELLER shall defend, indemnify and hold harmless BUYER group from and against any claim from third parties arising out of or in connection with the GOODS to the extent SELLER group has caused loss or damage to third party property, or death or injury to third party personnel. BUYER shall defend, indemnify and hold harmless SELLER group from and against any claim from third parties arising out of or in connection with the GOODS to the extent BUYER group has caused loss or damage to third party property, or death or injury to third party personnel.
- 15.6. SELLER shall release, defend, indemnify, and hold harmless BUYER group against any claims, losses, expenses (including without limitation all costs, demands, damages, suits, judgements, fines, penalties, liabilities and attorneys' fees) and causes of action that arise out of or relate to SELLER's delay or failure to furnish any documents or information required for compliance with applicable customs laws, rules, and regulations, including but not limited to the required import or export documents in support of any Free Trade Agreement or duty free claim or from any errors or omissions contained in such document certifications provided by SELLER, or from any non-compliance by SELLER with the aforesaid regulations or Free Trade Agreement requirements.

## **16. TAXES AND DUTIES**

SELLER shall be solely liable for and shall pay when due all taxes and duties whatsoever, including any penalties or interest related thereto, imposed by reason of WORK to be performed by SELLER, except for sales taxes, applied to the supply of WORK, that SELLER is required by law to collect from BUYER. Notwithstanding BUYER's rights, SELLER shall indemnify and save harmless BUYER against any liability for withholding taxes or any other taxes, including any penalties or interest for which SELLER or SELLER's subcontractors are responsible.

## **17. GUARANTEE LIABILITY**

- 17.1. SELLER guarantees the performance of the WORK, design and workmanship of GOODS and its suitability for its intended purpose according to the PURCHASE ORDER.

- 17.2. The guarantee period for GOODS commences when it is delivered in accordance with Article 10.
- 17.3. SELLER undertakes free of charge to repair all defects caused by faults in construction, materials or production, during a period of 48 months from COMPLETION CERTIFICATE or 36 months from being taken into use by CUSTOMER, whichever period ends first. In the event that the GOODS are out of function for a period owing to SELLER's default, the guarantee period shall be prolonged for a period corresponding to the time it has not been possible to use the GOODS for their proper purpose.
- 17.4. Parts, which are replaced/repared in accordance with the above guarantee provisions, shall have a renewed guarantee period of 24 months unless the remaining guarantee period is longer.
- 17.5. When SELLER is responsible for a defect or non-conformity, SELLER shall, without undue delay, rectify such defect or non-conformity at his own cost, expense and risk. SELLER shall notify BUYER of which measures SELLER intends to apply and the time for rectification. All rectification work shall include all necessary repair or replacement, including searching, dismantling, replacement, re-performance, re-installation and re-testing.
- 17.6. If SELLER fails to fulfil its obligations in accordance with the PURCHASE ORDER, BUYER may choose one or more of the following alternatives:
- a) Terminate the PURCHASE ORDER.
  - b) Demand that SELLER immediately performs the necessary rectification work.
  - c) Retain an amount sufficient to ensure rectification of the GOODS.
  - d) Demand compensation for all losses incurred by BUYER but limited to the PURCHASE PRICE.
  - e) Demand a new delivery.
  - f) After informing SELLER in writing, rectify the defects at SELLER's cost, either with own resources or by use of other suppliers.
  - g) Demand a price reduction.
- 17.7. BUYER shall be entitled to rectify the defect or re-perform the non-conformity itself or to engage another party to do so. In such case, SELLER shall reimburse all reasonable rectification costs. In addition, BUYER may claim damages for defects according to law.

## 18. FORCE MAJEURE

- 18.1. The PARTIES may be relieved from their respective obligations to the extent that they can prove that they have been prevented from keeping such obligations due to force majeure.
- 18.2. The affected PARTY shall immediately notify the other PARTY of the Force Majeure situation.
- 18.3. If a PARTY fails to give such notice, it shall be precluded from claiming the right to be relieved of its obligations.
- 18.4. In case of Force Majeure, each PARTY shall be responsible for its own costs resulting from the Force Majeure situation.
- 18.5. If the Force Majeure situation last without interruption for more than ninety (90) DAYS, each PARTY may terminate the PURCHASE ORDER by notice to the other PARTY.

## 19. RIGHT TO INFORMATION AND ACCESS TO THE WORK

- 19.1. Upon request, BUYER shall be entitled to promptly obtain all necessary information from SELLER, including satisfactory progress reports, information relating to subcontractors etc. SELLER, when requested by BUYER, shall provide un-priced copies of all subcontract documents provided that the subcontract concerns an important part of SELLER's delivery. However, BUYER may only request priced copies of subcontract when BUYER shall compensate the SELLER on a reimbursable items basis.
- 19.2. BUYER and/or CUSTOMER are at any time entitled to carry out, and SELLER shall assist, inspections of the GOODS and audits at SELLER's or any of SELLER's subcontractors' premises. For the purpose of performing such audit, access shall be given during all office hours to all timesheets, records and other documents, including original invoices and supporting documentation together with all books of accounts incorporating such account details. Such audit right shall apply during the period of the PURCHASE ORDER and up to five (5) years after the end of the year when the WORK with the exception of warranty work, is completed. If charges are proven incorrect, a new account shall be prepared. SELLER shall ensure that BUYER shall have similar rights to audit and inspect SELLER's subcontractors.
- 19.3. Inspections carried out by the BUYER shall not relieve the SELLER of its contractual responsibilities.

## 20. OWNERSHIP OF INTELLECTUAL PROPERTY

- 20.1. Each Party shall retain any right, title or interest in their respective background intellectual property.

- 20.2. Right to, or title or interest in, intellectual property developed during the performance of WORK and for which BUYER provides specific funding or knowhow, shall vest in BUYER.
- 20.3. SELLER shall notify BUYER of such developed intellectual property which shall vest in BUYER, and SELLER shall provide the necessary assistance to enable BUYER to acquire and register such intellectual property. BUYER shall reimburse SELLER all reasonable costs in connection with such assistance, including compensation to SELLER's employees or others, in accordance with applicable law or general agreements concerning compensation for intellectual property.
- 20.4. All drawings, specifications and other technical documentation, which is transmitted by BUYER to SELLER, shall remain the property of BUYER and shall not be used by SELLER for any other purpose than to perform WORK. It shall not be copied or disclosed to any third party without the prior written consent of BUYER.
- 20.5. SELLER shall indemnify BUYER from any claims, damages and costs by third parties from infringement of patent or other proprietary rights in connection with the GOODS. SELLER's responsibility relates to infringement anywhere in the world.
- 20.6. SELLER shall grant to BUYER and CUSTOMER an irrevocable, royalty-free, non-exclusive and worldwide license to use intellectual property under this PURCHASE ORDER vesting in SELLER to the extent necessary for BUYER or CUSTOMER to test, operate, maintain, repair, modify, extend or rebuild the GOODS.

## 21. CONFIDENTIALITY

Both PARTIES shall keep confidential all information and all information arising out of the PURCHASE ORDER that by its nature is confidential, including the terms of the PURCHASE ORDER. Neither PARTY shall divulge to a third party the said information without the written consent of the other PARTY unless such information:

- a) Is already known to such PARTY at the time the information was received,
- b) Is or becomes part of the public domain (Except by default of either PARTY or its personnel),
- c) Is rightfully received from a third party without an obligation of confidentiality, and/or
- d) Is required to be disclosed by law.

SELLER shall be entitled to disclose BUYER information to subcontractors to the extent necessary for the purpose of fulfilling its obligations under the PURCHASE ORDER, provided that such disclosure is made under a separate confidentiality and non-disclosure agreement no less stringent than this article.

## 22. CORPORATE SOCIAL RESPONSIBILITY, ANTI-CORRUPTION, FAIR COMPETITION

SELLER shall uphold the highest standards of business ethics and corporate code of conduct in the performance of the PURCHASE ORDER. Furthermore, SELLER by entering into the PURCHASE ORDER confirms that it will act in compliance with applicable labour standards, anti-discrimination rights and fundamental human rights norms.

SELLER further declares, represents and agrees that it or any subcontractor will not utilize child labour or forced labour in violation of the OECD Guidelines for Multinational Enterprises, including ILO Conventions on child labour and forced labour.

SELLER acknowledges principles enshrined in the pertinent international and regional conventions on combating corruption and to ensure compliance with the anti-corruption laws applicable to the activities under the PURCHASE ORDER and any other anti-corruption laws otherwise applicable to the PARTIES, if any, or their ultimate parent companies, including but not limited to the Foreign Corrupt Practices Act (USA) and the UK Bribery Act 2010 (UK).

SELLER warrants that neither it nor to its knowledge anyone on its behalf, has made or offered nor will make or offer any payment, gift, or promise or give any advantage, whether directly or through an intermediary, to or for the use of any person, organization or company, where such payment, gift, promise or advantage would be of purposes of:

- a) Influencing any act or decision of such person, organization or company;
- b) Inducing an act of a public official to do or omit to do any act in violation of his or her lawful duties;
- c) Securing any improper advantage; or

- d) Inducing a public official to use his or her influence to affect any act or decision of any department, agency or instrumentality of any government or public enterprise.

SELLER represents and agrees that it has not made and will not make any payments to, or provide anything of value to, any employee, consultant or agent of BUYER or CUSTOMER, or any of their family members, or to any other person, in connection with its activities under the PURCHASE ORDER.

SELLER agrees to act in a fair and ethically justifiable manner in accordance with applicable competition rules.

SELLER shall establish processes and procedures to comply with the requirements of this article and BUYER shall have the right to undertake audits and verifications of such.

In case of any potential and/or possible breach of the obligations set forth in this article, BUYER shall immediately be notified in writing by SELLER thereof, and BUYER shall be given access to sufficient documentation and information to determine whether such a breach has occurred.

In the event BUYER has reasonable reason to believe that a breach of any of the representations and warranties in this article has occurred or may occur, BUYER may withhold further payments until such time as it has received confirmation to its satisfaction that no breach has occurred or will occur. BUYER shall not be liable to SELLER for any claim, losses or damages whatsoever related to its decision to withhold payments under this provision.

SELLER represents and warrants that it, its subsidiaries and affiliates, neither has taken nor will take any direct or indirect action inconsistent with this article. In the event of any breach of the representations and warranties in this article, the PURCHASE ORDER shall be void and invalid from the outset without the requirement of any written notice of cancellation. Any claims for payment by the SELLER, including claims for services previously rendered shall be automatically terminated and cancelled and all payments previously made related to the breach of business practices policy shall be forthwith refunded to BUYER. SELLER shall further indemnify and hold BUYER harmless against any and all claims, losses or damages arising from or related to such breach or the cancellation of this PURCHASE ORDER, or both.

Furthermore SELLER shall comply with the provisions of the Norwegian Penal Code (Straffeloven) in particular paragraphs 276a, 276b.

### **23. DISPUTES**

- 23.1. This document is governed by Norwegian Law and specifically excludes Norwegian private international law.
- 23.2. Unless agreed to otherwise, all disputes related to this document shall be settled by Norwegian Courts.