



# **GENERAL CONDITIONS FOR PURCHASE OF GOODS**

**Contract reference:**

**Contract object:**

# Form of contract for purchase of goods

Contract of engagement between:

Nofima AS

(henceforth referred to as Buyer)

and

(henceforth referred to as Supplier)

For Buyer/Purchaser:	For Supplier/Contractor:
Tromsø, __.__.2020	_____, __.__. 2020
_____	_____

## Written inquiries in relation to the contract

All written inquiries regarding this contract shall be sent to the following addresses:

*Inquiries to the Buyer:*

Nofima AS,  
Postboks 6122,  
9291 Tromsø

*Inquiries to the Supplier:*

XXXX  
XXXX  
XXXX

### Contract documents

The contract includes the following documents, which apply in the priority they are stated below. Any exception to this priority must be precisely and unambiguously clarified.

	Included	N/A
This contract document		
Appendix 1: Buyer's demands		
Appendix 2: Supplier's tender / quotation		
<i>Appendix 3: Buyer's technical platform</i>		
<i>Appendix 4: Project and progress plan</i>		
<i>Appendix 5: Testing and approval</i>		
<i>Appendix 6: Administrative matters</i>		
<i>Appendix 7: Price and payment terms</i>		

## General Conditions for Purchase of Goods

### 1 Application

- 1.1 These General Conditions apply to purchase of goods for Nofima AS, hereafter referred to as "Buyer".
- 1.2 The Supplier is the addressee of the order and/or the party a Contract is entered into with.
- 1.3 Any deviating contract/delivery terms are ineffective concerning the delivery unless the Buyer has accepted these in writing.
- 1.4 The general Conditions in the Act of 13 May 1988 no. 27 on The Sale of Goods ("kjøpsloven") apply, unless otherwise expressly stated.

### 2 Price and payment terms

- 2.1 Unless otherwise agreed, the price is fixed according to the quotation (no. xxxx), and exclusive of value - added tax, but inclusive all other costs such as customs duty, and other taxes and duties. If tax or duty regulations are altered in a way which effecting the price, the price shall be changed accordingly.
- 2.2 If the contract object is for sale by the Supplier on the open market at better terms than in this Contract the best terms shall apply for the Buyer
- 2.3 Disbursements are only compensated if accepted by the Buyer. If so, travel costs are compensated according to standard Norwegian state terms. Travel time will not be compensated.
- 2.4 Invoicing shall be done with payment each 30 calendar days. The term of payment shall not accrue before delivery is made and approved invoice have been received.
- 2.5 Approved invoice is an invoice which shall be specified and documented, so that the Buyer can easily check whether the invoiced items are received and conforms to the Contract. Invoice fees, late fees and other fees are not admitted. For invoicing based on accrued time, the time is to be specified.
- 2.6 If the Buyer fails to pay at the agreed time, the Supplier shall be entitled to claim interest on any overdue amount, pursuant to the Act of 17 December 1976 No. 100 relating to Interest on Overdue Payments, etc. (the Late Payment Interest Act).
- 2.7 The Supplier cannot transfer invoices to a third party without the prior consent of the Buyer.

### 3 Delivery

- 3.1 Delivery is to be done DDP (Incoterms 2010) at the agreed place at the agreed time.
- 3.2 Delivery is considered done when the Goods have arrived at the agreed place. The delivery shall be accompanied by a list of content which is to be signed by the Buyer before delivery is considered done.
- 3.3 At delivery the following shall – if relevant or required – be included in the contract and available for the Buyer; product sheets, instruction manuals etc, documentation for management, operation, maintenance and development and any other relevant or required documentation.
- 3.4 Unless agreed partial delivery is not accepted

### 4 Supplier's contractual obligations

- 4.1 The Goods' quality
  - 4.1.1 The Supplier shall deliver the Goods in accordance with the agreed requirements concerning character, quantity, quality, other characteristics and packaging.
  - 4.1.2 Unless otherwise agreed in writing, the contract object shall;

- Be fit for the purpose that the object is usually used for
- Be fit for ant specific purpose that the Supplier was or had to be aware of
- Be packaged in a proper and safe manner
- Be in accordance with prevailing regulations and acceptance requirements.

### 4.2 Warranty

- 4.2.1 The Supplier undertakes liability for faults and defects of the delivery that are demonstrated within the first 24 months after the delivery is received. For partial deliveries the warranty period starts to run from the time when the delivery is fully installed and ready for use. The Supplier must in this warranty period as soon as possible and for its own cost replace defective parts or repair the delivery so that it is free from faults and defects of any kind. The warranty period shall not be shorter than normal practise for the particular product or trade.
- 4.2.2 This provision does not limit the Buyer's right to claim remedies for faults and defects pursuant to the Sale of Goods Act.

### 4.3 Right of ownership, defects in title

- 4.3.1 The ownership of the Goods shall be transferred to the Buyer at whichever of the following two events first occurs
  - a. The time at which the Buyer pays for the Goods.
  - b. The time at which the Buyer approves the delivery of the Goods.
- 4.3.2 The Supplier shall deliver the Goods free of any third party claims that are not described in the Contract and shall indemnify the Buyer from any form of third party claims relating to the Goods.
- 4.3.3 The Supplier shall deliver the Goods with the necessary approvals, certificates and permits that are required by public bodies in order for the Buyer to utilise the Goods in the manner that it is intended to be used.

### 4.4 Transfer of documents

Where the Goods are represented by documents, these shall be delivered together with the Goods.

### 4.5 Subcontractors

Unless otherwise agreed, the Supplier may use subcontractors to fulfil its obligations under this Contract. The Supplier is responsible for the fulfilment of the entire delivery. The Buyer is entitled to disallow the choice of subcontractors if there are justifiable grounds.

### 4.6 Insurance

The Supplier shall maintain insurance for the Goods until the risk is transferred to the Buyer.

### 4.7 Notification obligation

If the Supplier is hindered in fulfilling its obligations at the correct time, it shall without undue delay notify the Buyer of the impediment and its effect on fulfilling the Contract. The Supplier shall be able to document when and how such notifications was given.

## 5 Buyer's remedies for breach of contract

### 5.1 Limitation period

- 5.1.1 If the Buyer wishes to make a claim for breach of contract, it must notify the Supplier in writing about the defect within a reasonable time after it discovered or should have discovered the defect.
- 5.1.2 If the Buyer does not submit a claim within 3 (three) years after delivery, it cannot later make a claim for that defect. This does not apply if the Supplier through a warranty or other agreement has assumed liability for defects for a longer period.
- 5.1.3 The Buyer may in any case make a claim on the defect, if the Supplier has shown gross negligence or otherwise behaved contrary to integrity and good faith.

### 5.2 Breach of notification obligation

If the Buyer does not receive notification as stipulated in Clause 4.7 within a reasonable time after the Supplier knew or should have known about the impediment, the Buyer can demand damages for loss that could have been avoided if it had received notification within the time limit.

### 5.3 Withholding of payment

If the Buyer has claims resulting from the Supplier's breach of contract, the Buyer is entitled to withhold as much of the purchase price as the breach appears to constitute of the total compensation.

### 5.4 Penalties

- 5.4.1 If the Supplier does not meet deadlines as agreed, the delay constitutes grounds for daily fines. Daily fines will start to accrue automatically in the event of overdue delivery.
- 5.4.2 Daily fines constitute 1 % of the compensation excl. VAT for the part of the delivery that is affected by the delay per work day, limited to 20 (twenty) work days. The daily fine constitutes in any event a minimum of NOK 1000 per day.
- 5.4.3 The Buyer cannot discharge the Contract while a daily fine is running. This does not apply if the Supplier or someone it is liable for has shown gross negligence or otherwise behaved contrary to integrity and good faith.
- 5.4.4 If the daily fine does not cover the Buyer's documented direct losses incurred by the delay, the Buyer may claim damages for the excess amount.

### 5.5 Substitute purchase at discharge

At discharge, the Buyer has the right to conduct a substitute purchase in a reasonable manner and within a reasonable time after the discharge. In the event of a claim for damages, the Buyer is entitled to damages for the difference between the agreed price and the substitute transaction, in addition to other damages pursuant to this Contract.

### 5.6 Anticipated breach of contract

An anticipated breach of contract exists where it is clear that a material breach of contract will occur due to the Suppliers actions or other defects in the Supplier's economic or technical qualifications. The Buyer may withhold its contractual obligations in the event of an anticipated breach of contract.

### 5.7 Overbilling

If the Buyer identifies overbilling it may charge the Supplier a penalty up to 20 % of the amount charged in the overbilled invoice.

### 5.8 Other remedies

Other remedies follow from the Act of 13 May 1988 no. 27 on The Sale of Goods ("kjøpsloven").

### 5.9 Damages / limitations to damages

The Buyer may claim damages in respect of any direct loss arising from delay, defect or other breach of contract unless the Supplier demonstrates that it is not responsible for the breach of contract or in case of suspension reasons according to clause 8.

Any penalties according to 5.4 (liquidated damages) will be deducted from damages for the same breach of contract.

No damages may be claimed in respect of indirect loss. Loss as specified in the (Norwegian) Sale of Goods Act § 67, second paragraph, is classified as indirect loss.

The limitations on damages mentioned above in this provision shall not apply to the cost of normal measures compensating for any delay or defects in the delivery, and the cost of measures limiting other loss than that mentioned above.

Overall damages over the term of the Agreement are limited to an amount that corresponds to the agreed consideration excluding Value Added Tax.

The said limitations shall not apply in the case of gross negligence or wilful misconduct on the part of the defaulting party or anyone for whom it is responsible.

## 6 Buyer's contractual obligations

### 6.1 General obligations

The Buyer shall:

- a. Pay the agreed price;
- b. Contribute to the Supplier's performance and delivery; and
- c. Be responsible for clarity towards the Supplier with regards to the purpose of the purchase and the Buyer's requirements and needs.

### 6.2 Examination obligations

The Buyer undertakes as soon as possible under the conditions after delivery to examine the Goods in accordance with good practice.

### 6.3 Notification obligation

If the Buyer is prevented in meeting its obligations at the correct time, it shall without undue delay notify the Supplier of the impediment and its potential effect on fulfilling the Contract. The Buyer shall be able to document when and how such notification was given.

## 7 Supplier's remedies for breach of contract

### 7.1 Breach of notification obligation

If the Supplier does not receive notification as stipulated in Clause 6.3 within a reasonable time after the Buyer knew or should have known about the impediment, the Supplier can demand damages for loss that could have been avoided if it had received notification within the time limit.

7.2 Supplier's right to withhold

The Supplier is not entitled to withhold performances as a consequence of the Buyer's breach of contract. This does not apply if the breach is material.

7.3 Other remedies

Other remedies follow from the Act of 13 May 1988 no. 27 on The Sale of Goods ("kjøpsloven").

**8 Suspension regulations (force majeure)**

8.1 The Parties' obligations under this Contract may be suspended in cases in which impediments occur outside the control of the affected Party, which it could not reasonably be expected to have considered at the time of signing the Contract or avoided or overcoming the consequences of in relation to fulfilling one or more of the contractual obligations.

8.2 Suspension is conditional on the affected Party without undue delay notifying the other Party of the impediment and that the obligations thereof are suspended.

**9 Transfer of rights and obligations**

The Parties cannot transfer the rights or obligations governed by this Contract to a third party without the prior written consent of the other Party. Consent cannot be unreasonably withheld. If the Supplier merges or demerges the Buyer has the right to discharge the Contract immediately.

**10 Advertisements**

The Supplier must obtain prior approval from the Buyer if the Supplier for advertisement purpose or in other way wishes to give the public information about the Contract beyond using the delivery as general reference.

**11 Disputes**

If disputes are to occur over the interpretation or legal effects of these general terms, the dispute shall be endeavoured resolved through negotiations. If negotiations have not produced a result within 4 (four) weeks, after the first negotiation meeting, the dispute shall be decided by the normal courts of law. The Buyer's court of domicile is the court of law for disputes arising from this Contract. The same applies to underwriters. Disputes are to be solved in accordance with Norwegian law.