

**General Terms and Conditions for the
Procurement of Goods – rev. acoustic telemetry equipment [15.09.21]**
NORWEGIAN RESEARCH CENTRE AS

1 Application and Interpretation

- 1.1 These "General Terms and Conditions", shall apply for the procurement of goods by NORCE Norwegian Research Centre AS.
- 1.2 In these General Terms and Conditions, the following definitions shall apply:
- 1.2.1 "Buyer" shall mean NORCE Norwegian Research Centre AS.
- 1.2.2 "Call-Off"
- 1.2.3 "Contract" shall mean the Framework Agreement for Procurement of Goods and any Call-Offs thereto, entered into by and between Buyer and Supplier including any attachments thereto, and these General Terms and Conditions.
- 1.2.4 "Goods" shall mean the items and/or the pieces of equipment and/or documents and/or material, that Supplier shall deliver to Buyer, as further described in the Contract.
- 1.2.5 "Party" shall mean Buyer or Supplier. "Parties" shall mean Buyer and Supplier.
- 1.2.6 "Sales Act" shall mean the Norwegian "Lov om kjøp of 13. May 1988, no 27".
- 1.2.7 "Supplier" shall mean the legal entity that has entered into the Contract with Buyer.
- 1.3 Any deviating contract terms are ineffective concerning the delivery unless they have been accepted by Buyer and provided they are specifically included in the Contract as special conditions.

2 Price and Payment terms

- 2.1 The price shall be agreed in advance by the Parties and included in the Contract. The price includes all costs and expenses, such as e.g. packaging, customs, duties, taxes (exclusive of VAT) and other levies. The price shall be stated in NOK, alternatively EUR or USD, and exclusive of VAT.
- 2.2 Invoicing shall be done with payment per 45 days. The term of payment shall not accrue before the Goods have been delivered and a correctly issued invoice has been received and approved by Buyer. Payment shall not operate as a waiver of any of Buyer's rights under the Contract or otherwise and shall not prejudice Buyer's right to question the amounts paid to Supplier.
- 2.3 Invoices shall be submitted in accordance with the Electronic Trading Format (EHF) to NORCE Norwegian Research AS, org. no. 919 408 049. Supplier shall be responsible for paying any cost it may incur in respect of submitting electronic invoices. If Supplier is not able to submit invoices via EHF then invoices shall be e-mailed to fakturamottak@norce-research.no.
- 2.4 Invoices shall be specified and documented, for Buyer to easily check whether the invoiced Goods have been received and conform to the Contract. All invoices shall be clearly marked with Buyer's purchase order number. An invoice or portion thereof that is incorrect or incomplete due to lack of relevant documentation shall not be considered as received for the purpose of payment until

correct and all relevant documentation has been received by Buyer.

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

3 Delivery

- 3.1 Unless otherwise specifically agreed upon, all Goods shall be delivered DDP. The delivery clause shall be interpreted in accordance with the latest addition of Incoterms.
- 3.2 At delivery, relevant instructions for all installation, operation and maintenance shall be included in Norwegian or English for all Goods constituting a part of the delivery. Also included shall be any other documentation agreed upon and specified in the Contract.

4 Supplier's contractual obligations

4.1 General obligations

- 4.1.1 Supplier shall comply with all provisions of applicable law and regulations relevant to the Contract, including but not limited to, health, safety and environmental legislation, regulations, policies, procedures and standards applicable at any location related to the work to be carried out under the Contract.
- 4.1.2 Supplier shall at all times act as an independent contractor and nothing stated or implied herein shall be construed to make Supplier an employee of Buyer nor shall Supplier in any way represent that it or any of its employees are employees of Buyer.

4.2 Warranty

- 4.2.1 Supplier warrants and guarantees that:
- The Goods shall be of high quality and in strict accordance with all requirements, terms and conditions of the Contract, including but not limited to requirements concerning character, quantity, quality, other characteristics and packaging.
 - The Goods shall be free from faults and defects.
 - The Goods shall comply in all respects with the applicable law and regulations.
- 4.2.2 Supplier undertakes liability for faults and defects of the Goods that are discovered within the first twenty-four (24) months after receipt of the Goods. The Goods are defective if they do not turn on when Buyer attempts to activate them. For partial deliveries of the Goods the warranty period begins to run from the time when all of the Goods have been delivered. If Supplier has made any replacements or undertaken repair work during the twenty-four (24) month warranty period, a new twenty-four (24) month warranty period will apply on the replaced Goods and the parts of the Goods that are repaired. During the warranty period Supplier shall, at Supplier's expense and as soon as possible, however always within 7 days, upon receipt of Buyer's notification, provide replacement Goods. Should Supplier for any reason fail or refuse to provide replacement

Goods within a reasonable time, however never less than 30 days, after having been notified by Buyer, Buyer shall be entitled to make a replacement purchase of Goods, and Supplier shall pay Buyer the costs thereof. The warranty period shall never be shorter than what is normal practise for the specific product or trade.

4.3 Confidentiality

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

- a. was public knowledge at the time of receipt;
- b. was known by Supplier at time of receipt;
- c. was independently and lawfully received from a third party without any restrictions on confidentiality; or
- d. was developed by Supplier independently of the received information.

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

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

4.3.4 The provisions of this Clause 4.3 shall not prevent Supplier from disclosing information as required by applicable laws, regulations, rules and orders, to any governmental or other authority having jurisdiction of the work.

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

4.4 Right of ownership, defects in title

4.4.1 The title and ownership of the Goods shall be transferred to Buyer at the time when whichever of the following two events first occurs:

- a. The time at which Buyer pays for the Goods or respective parts thereof.
- b. The time of contractual delivery of the Goods.

4.4.2 The intellectual property rights of the Goods, including any software embedded in the Goods, shall remain with the Supplier. Supplier hereby grants to Buyer a non-exclusive, non-transferable, irrevocable,

worldwide, royalty free right and license to use such intellectual property rights of the Goods to the extent required within the framework of Supplier's normal operations including research activities. This includes a right to extract data from the Goods and use such data in Supplier's normal operations.

4.4.3 Supplier shall deliver the Goods free from any third-party claims and shall indemnify the Buyer from any kind of third-party claims of whatsoever nature relating to the Goods.

4.4.4 Supplier shall deliver the Goods with the necessary approvals, certificates and permits that are required by public bodies or others in order to allow the Buyer to utilise the Goods.

4.4.5 Irrespective of transfer of title, Supplier will bear the risk of loss and damage of the Goods until the Goods are delivered in accordance with the agreed Incoterm in the Contract.

4.5 Transfer of documents

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

4.6 Subcontractors

Unless otherwise agreed, Supplier may use subcontractors to fulfil its obligations under the Contract provided that Supplier has notified Buyer in writing of the intended subcontractor(s) and the scope of their involvement within reasonable time prior to the appointment of the subcontractor. Buyer shall have ample time to review the intended appointment of the subcontractor(s), and to potentially refuse the appointment on reasonable grounds. Supplier is responsible for its subcontractors being subject to the same contractual terms as Supplier has towards Buyer. If Supplier appoints a subcontractor, Supplier shall remain fully responsible for the Goods provided by and/or the work carried out by the subcontractors in the same manner as if Supplier were providing the Goods itself.

4.7 Insurance

Supplier shall establish and maintain insurance (i) to cover its contractual obligations and liabilities pursuant to the Contract, and (ii) for its personnel as per mandatory rules and regulations under the laws applicable to the Supplier. Buyer shall have the right to request documentation for such insurance coverage.

4.8 Wages and working conditions

Supplier shall ensure that its and any subcontractors' employees who contribute directly to the performance of Supplier's obligations under the Contract do not receive wages or have working conditions that are inferior to those stipulated in the regulations relating to generalised collective wage agreements. In areas not covered by generalised collective wage agreements, Supplier shall ensure that the same employees do not receive wages or have working conditions that are inferior to those stipulated in any applicable nationwide collective wage agreements relating to the relevant trade. This applies to work performed in Norway.

All agreements that are entered into by Supplier and that involve the performance of work that contributes directly to the performance of Supplier's obligations under the Contract shall include corresponding terms and conditions.

If Supplier fails to meet this obligation, Buyer shall be entitled to retain part of the Contract price until it has been documented that compliance has been achieved.

Supplier shall, at the request of Buyer, disclose documentation relating to the wages and working conditions which are used. Each of Buyer and Supplier may request that the information be submitted to an independent third party appointed by Supplier to examine whether the requirements of this provision have been complied with. Supplier may require the third party to sign a declaration stating that the information will not be used for any other purpose than ensuring compliance with the obligations of the Supplier under this provision. The disclosure obligation shall also apply to subcontractors.

4.9 Notification obligation

If Supplier is unable to fulfil any of its obligations under the Contract within the contractual time frame, Supplier shall without undue delay notify Buyer of the impediment and its effect as to the fulfilment of the Contract. Supplier shall be able to document when and how such notification was given.

5 Buyer's remedies for breach of Contract and other rights

5.1 Breach of notification obligation

If Buyer does not receive notification from Supplier as stipulated in Clause 4.9 within reasonable time after the Supplier knew or should have known about the impediment, Buyer may claim damages for loss that could have been avoided had it received notification in due time.

5.2 Suspension

5.2.1 Buyer may request that the delivery of the Goods, or part of the Goods, is/are temporarily suspended for convenience. Such request shall be presented in writing and state which part(s) of the Goods to be suspended, from which date and the estimated date for resumption of the delivery of the Goods.

5.2.2 Supplier shall resume work upon notification from Buyer. Buyer shall compensate Supplier for its unavoidable documented direct costs related to the suspension. Buyer shall not, however, be obligated to pay Supplier for any costs incurred by a suspension to the extent such suspension is caused by an act or omission of Supplier or can be attributed to Supplier.

5.2.3 Buyer may suspend the delivery of the Goods, or parts thereof, with immediate effect if Supplier is in default of any of its obligations under the Contract. Such request shall be presented in writing and state which part(s) of the Goods to be suspended. Supplier shall rectify the default as soon as possible and provide full details and documentation to Buyer of the completed rectification. Once Buyer is satisfied that the default has been rectified, Buyer shall issue a notification that the delivery of the Goods shall be resumed, and Supplier shall resume the delivery of the Goods immediately upon receipt of the notification from Buyer.

5.2.4 In the event of a suspension under this Clause 5.2, the schedule shall be adjusted with due regard to the period of suspension, unless such suspension is caused by an act or

omission of Supplier or can be attributed to Supplier.

5.3 Termination

5.3.1 The Contract for the delivery of the Goods or parts thereof may be terminated for convenience by Buyer upon written notice. A reduction of the delivery of Goods by up to 20 percent of the total price for the Goods is deemed to be a change order and not a termination.

5.3.2 If Buyer terminates the Contract for the delivery of the Goods or parts thereof before the Goods are delivered pursuant to Clause 3.1, then Supplier shall, unless the notice of termination otherwise direct, immediately cease performance of the obligations under the Contract or relevant parts thereof, and Buyer shall pay:

- a. Supplier's outstanding amount for any part(s) of the Goods that have already been delivered in accordance with the Contract.
- b. Supplier's documented and direct costs related to the termination of the Contract for the delivery of the Goods or parts thereof.

5.4 Default

5.4.1 Supplier shall be deemed to be in default of performance of its obligations under the Contract in the following cases:

- a. if Supplier is in breach of its obligations under the Contract; or
- b. if Supplier becomes insolvent or if any proceedings are commenced by or against Supplier under any bankruptcy, insolvency or similar law.

5.4.2 Buyer shall be entitled to terminate the Contract in part or in full with immediate effect in the event of the occurrence of one of the events described in Clause 5.4.1 by issuing a notice of termination. This right shall be without prejudice to any other rights or remedies that Buyer may have under the Contract.

5.4.3 If Buyer should terminate the Contract in part or in full pursuant to Clause 5.4.2, then:

- a. Supplier shall, unless the notice of termination direct otherwise, immediately cease performance of the obligations under the Contract or relevant parts thereof;
- b. Buyer's payment obligations in respect of the terminated Goods shall be limited to paying Supplier's outstanding amount for any part(s) of the Goods that have already been delivered in accordance with the Contract.
- c. Buyer shall have the right to make a substitute purchase of Goods in a reasonable manner and within a reasonable time after the termination. Buyer may claim damages from Supplier for the difference between the agreed price under the Contract and the cost of the substitute purchase.

5.5 Other remedies

Other remedies follow from the Sales Act, and for any breach of the Contract Buyer may claim damages from Supplier accordingly.

6 Buyer's contractual obligations

6.1 General obligations

Buyer shall:

- a. Pay the agreed price, and
- b. Contribute to Supplier's ability to deliver the Goods as specifically stated in the Contract.

7 Force Majeure

- 7.1 Neither Party shall be considered in default of their obligations under the Contract to the extent that it can be established that the performance of such obligations was caused by force majeure, which means any exceptional event or circumstance which was unforeseeable when the Contract was entered into, which has been notified in accordance with this Clause 7, which is beyond the control and without the fault or negligence of the Party affected and which, by the exercise of due diligence, the said Party is unable to prevent and provide against ("Force Majeure"). The Party claiming Force Majeure shall use its reasonable endeavours to mitigate, avoid, circumvent, or overcome, the circumstances of Force Majeure. In the event of Force Majeure, the obligations of both Parties hereunder, except those previously incurred and remaining capable of fulfilment, shall be suspended during the period of Force Majeure, provided that the affected Party shall make every reasonable effort to remedy the cause thereof.
- 7.2 The Party pleading force majeure shall notify the other Party in writing without undue delay.
- 7.3 The Parties shall each cover their own cost in a force majeure situation.
- 7.4 Each Party may terminate the Contract in the event that the force majeure situation lasts for, or it is obvious that it will last for, a continuous period of more than ninety (90) days.

8 Assignment of rights and obligations

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

9 Liability and indemnification

- 9.1 Each of the Parties shall be liable for and shall release, defend, indemnify and hold harmless the non-defaulting Party from and against any claims by third parties arising out of or relating to the delivery of the Goods to the extent caused by an act or omission of the defaulting Party.
- 9.2 Supplier shall defend, indemnify and hold harmless Buyer from and against any claim of whatsoever nature arising from the Goods and/or installation or service thereof, pollution occurring on the premises of Supplier or caused by the property or equipment of Supplier arising from, relating to or in connection with the performance or non-performance of the Contract.
- 9.3 Buyer shall defend, indemnify and hold harmless Supplier from and against any claim of whatsoever nature arising from pollution occurring on the premises of Buyer and caused by the property or equipment of Buyer arising from, relating to or in connection with the performance or non-performance of the Contract, unless and to the

extent that the pollution was caused by the Goods and/or installation or service thereof.

- 9.4 Notwithstanding anything herein to the contrary and to the maximum extent permitted by applicable law, neither Party shall be liable to the other by way of negligence or by reason of any breach of this Contract or otherwise, for any loss of profit, loss of revenue, loss of use, loss of production, or for any indirect or consequential damage of whatsoever nature that may be suffered by the other Party, and each Party hereby agrees to release and indemnify the other Party from any such liability.

- 9.5 The liabilities and exclusions of liabilities, releases and indemnities set forth in Clause 9 shall apply to any claims, losses or damages without regard to the cause thereof, including but not limited to pre-existing conditions, strict liability, tort, breach of contract, breach of duty or the negligence of any kind or other legal fault or responsibility of any person.

10 Audit

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

11 Advertisements

Supplier must obtain prior approval from Buyer if Supplier for advertisement purposes or for any other reason wishes to issue information to the public about the Contract, beyond using the delivery as a general reference.

12 Representatives

- 12.1 Each Party shall in the Contract appoint a representative to act as the representative of the respective Parties, and these persons only shall have the authority to act on behalf of the Parties in any and all matters relating to the Contract. Each of the representatives may, by giving written notice to the other representative, delegate any of its duties to one or more other persons who shall have the authority to act on his behalf hereunder.

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

13 Choice of Law and Dispute Resolution

The Contract and these Terms and Conditions shall be governed by and interpreted in accordance with Norwegian Law, including the Sales Act. The Parties shall seek to resolve any dispute arising out of or related to the Contract amicably. If the dispute cannot be settled amicably, it shall be settled by court proceedings by the District Court in Bergen, Norway.