

# **GENERAL CONTRACT TERMS FOR THE PURCHASE OF SERVICES**

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## **1 SCOPE OF APPLICATION**

These General Contract Terms apply between the Customer (hereinafter referred to as the “Customer”) and the Supplier (hereinafter referred to as the “Supplier”) who undertake to provide services and any associated goods (hereinafter referred to as the “Services”) to the Customer. The Customer and the Supplier may also individually be referred to as a “Party” and jointly as the “Parties”.

The objective is to govern the rights and obligations of the Parties with regard to the Services.

## **2 CONTRACT DOCUMENTS**

The following documents, which must be read in combination, are included in the contract (hereinafter referred to as the “Contract”):

- a) Agreement document with specified appendices/attachments (including the Supplier's tender)
- b) Special Contract Terms
- c) These General Contract Terms

In the event of any conflict between the documents, they shall apply in the order specified above.

Unless otherwise specified, appendices/attachments with lower numbering shall take precedence over appendices/attachments with higher numbering. Nevertheless, the Supplier's solution description shall take precedence over the Customer's specification to the extent that it is clearly and unambiguously stated what has been changed, replaced or added.

If the issue of precedence is not resolved by the aforementioned principles, the principle that special provisions take precedence over general provisions and that newer provisions take precedence over older provisions shall apply.

The Supplier's own terms and conditions are not part of the Contract or otherwise accepted in any other way, unless the Customer has expressly made them part of the Contract.

## **3 COOPERATION AND MUTUAL OBLIGATIONS**

### ***3.1 Cooperation***

The Parties shall cooperate loyally in the performance of the Contract.

The Parties shall respond to enquiries without undue delay.

Without undue delay the Parties shall inform each other of any circumstances which they understand or should understand will have consequences for the Services or the Contract.

### **3.2 Meetings**

If a Party deems this necessary, with notice of at least three (3) business days the Party may convene the other Party to attend a meeting to discuss the contractual relationship and the manner in which it is conducted.

### **3.3 Statistics and reporting**

The Supplier shall be obliged to submit delivery statistics and reporting as agreed or at the request of the Customer during the contract period and/or on the expiry of the Contract. The Supplier shall not receive any special remuneration for this.

### **3.4 Personal data and information security**

The Supplier shall take adequate measures to fulfil the requirements relating to information security in connection with the implementation of the Services.

If the Supplier processes personal data on behalf of the Customer, the Customer and the Supplier shall be required to enter into a Data Processing Agreement in accordance with the Personal Data Act and any sector-specific personal data legislation relevant to the Supplier's activities. The same shall apply to personal data obtained by the Supplier from sources other than the Customer.

The Data Processing Agreement shall be entered into before any processing of personal data may commence.

The Parties' liability for damages that affect data subjects or other natural persons and that result from violation of the GDPR (Regulation 2016/679), the Norwegian Personal Data Act and regulations or other regulations that implement the GDPR shall be in accordance with the provisions of Article 82 of the GDPR.

The limitation of liability in Clause 9.10 shall not apply to liability resulting from Article 82 of the GDPR.

The Parties shall be individually liable for administrative fines imposed in accordance with Article 83 of the GDPR.

### **3.5 Confidentiality**

The Parties have a duty to protect the confidentiality of any information they receive or of which they otherwise become aware concerning the other Party's business or personal circumstances, unless such information is publicly known.

The Supplier may only transfer confidential information to subcontractors and third parties to the extent necessary for the performance of the Contract, provided that these parties are subject to a duty of confidentiality equivalent to this clause.

Since the Customer is a public entity, the duty of confidentiality pursuant to this provision is no more extensive than as set out in the Act of 10 February 1967 relating to the procedure in cases concerning the public administration (the Norwegian Public Administration Act) (*Forvaltningsloven*) or equivalent sector-specific regulation.

Furthermore, the duty of confidentiality pursuant to this provision does not impede the disclosure of information required to be submitted in accordance with an Act or regulation, including freedom of disclosure and right of access pursuant to the Act no. 16 of 19 May 2006 Act relating to the right of access to documents held by public authorities and public undertakings (the Norwegian Freedom of Information Act) (*Offentleglova*). If possible, the other Party must be notified before such information is disclosed.

### **3.6 Duty of notification**

If a Party is prevented from fulfilling its obligations in due time, this Party must, without undue delay, notify the other Party of the impediment and its effect on the opportunity to fulfil the obligations. It must be possible to document when and how such notification was given.

## **4 OBLIGATIONS OF THE SUPPLIER**

### **4.1 Services**

The Supplier will deliver the Services agreed in the Contract. The Services shall be performed professionally, efficiently and to a high professional standard, and be suitable for the Customer's purpose and in accordance with the contractual requirements in general.

The Supplier is responsible for ensuring that the performance of the Contract takes place in compliance with applicable legislation, and otherwise in accordance with relevant industry regulations and any other regulations that may affect the Services.

The Supplier will obtain and maintain all necessary permits, certificates and approvals, so that the Customer can make use of the Services in accordance with the contractual requirements, unless it is agreed in writing that these are to be provided by the Customer. At the request of the Customer, the Supplier will provide documentation that the necessary permits, certificates and approvals have been obtained.

### **4.2 Time and place of delivery**

The Supplier will perform and deliver the Services at the agreed place, at the agreed time and in the agreed manner, in accordance with the Contract.

Unless otherwise agreed, the goods under the agreement shall be delivered free of charge to the agreed place of delivery, in accordance with DDP, INCOTERMS 2020 (without VAT in the case of a foreign supplier).

### **4.3 Documentation**

The Supplier will deliver all documentation required by the Customer in order to make use of the Services, or required for other reasons, such as final reports, service documents, MOM documentation, drawings and schedules. The documentation must be provided at the time of the completion of the Services, unless another time is agreed.

### **4.4 Guarantee**

Unless otherwise agreed, the guarantee period for the result of the Services, or any goods included in the Services, is two (2) years from the time that the Services are completed in accordance with clause 7.1. For sub-assignments, the deadline is calculated from the completion of all Services. However, the guarantee period shall not be any shorter than normal practice for the industry in question.

During the guarantee period, the Supplier is liable for defects and deficiencies in the Services. During this guarantee period, the Supplier must rectify any deficiencies in the Services as soon as possible and at its own expense, so that they are free from defects and deficiencies of any kind, for example by replacing defective parts and/or performing the Services again.

#### **4.5 Defect in title**

The result of the service must be free of any defect in title and the Supplier shall indemnify the Customer for any form of defect in title concerning the Service.

### **5 OBLIGATIONS OF THE CUSTOMER**

#### **5.1 Contribution**

The Customer shall make the contribution that can reasonably be expected for the Supplier to be able to fulfil the contractual obligations.

#### **5.2 Duty of inspection**

If relevant, within a reasonable time after delivery the Customer is obliged to investigate whether the Services are in accordance with the Contract, provided that such investigation is possible in practice and appropriate for the nature of the Services.

### **6 PRICE AND PAYMENT TERMS**

#### **6.1 Price and price adjustment.**

The contract price constitutes the Customer's full and complete payment obligation under this Contract. The contract price must include all direct and indirect costs of the Services and, unless otherwise agreed, will not be subject to adjustment during the contract period.

#### **6.2 Outlays and travel expenses**

Outlays are only covered to the agreed extent. In cases where this is agreed, travel and subsistence expenses are covered at the current tariff rates of the Norwegian State. Travel time is not covered.

#### **6.3 Invoicing**

Norwegian suppliers must use electronic invoices in an approved standard format (EHF). The invoice must be marked with the Customer's purchase order number.

Invoicing will take place in arrears after the Services have been completed in accordance with clause 7.1, unless other invoicing time(s) have been agreed. If the Customer makes a prepayment at any time, the Supplier may be required to provide an adequate guarantee for the prepaid amount.

Invoices must be paid within 30 calendar days of receipt of a valid invoice. A valid invoice is an invoice that enables the Customer to verify that all items specified on the invoice has been delivered/performed.

Without the prior written consent of the Customer, the Supplier may not assign a claim for payment to a third party for collection.

#### **6.4 Late payment**

In the event of late payment due to circumstances within the Customer's control, the Supplier may require late payment interest in accordance with Norwegian Act no. 100 of 17 December 1976 relating to Interest on Overdue Payments, etc. (*Forsinkelsesrenteloven*).

#### **6.5 Overbilling**

The Supplier is obliged to reimburse any excess amount paid by the Customer. This obligation shall apply for up to three years after the payment in question has taken place.

The Supplier must pay late payment interest in accordance with Act no. 100 of 17 December 1976 relating to Interest on Overdue Payments, etc. on the overbilled amount, calculated as from the time of payment and up to the date of reimbursement.

## **7 TIME OF COMPLETION AND TRANSFER OF RIGHTS**

### **7.1 Time of completion**

Completion is deemed to have taken place when the Services have been performed in accordance with the requirements of this Contract and this has been approved by the Customer.

If the Contract includes a testing and approval plan, completion shall be deemed to have taken place when testing has been performed and approved.

If the Services include documents, etc., completion shall not be deemed to have taken place until all relevant documents have been handed over and approved by the Customer.

### **7.2 Right of ownership, etc.**

Right of ownership, copyright and other relevant tangible and intellectual property rights to the results of the Services shall fall to the Customer at the time that completion has taken place in accordance with clause 7.1.

The rights also include the right to change and further transfer, cf. Section 68 of Act no 40 of 15 June 2018 concerning copyright to intellectual property, etc. (the Norwegian Copyright Act) (*Åndsverkloven*).

The Supplier will retain the rights to their own tools and methodological basis. Both parties may also use general knowledge (know-how) acquired in connection with the Contract that is not subject to the duty of confidentiality.



## **8 CHANGES, SUSPENSION, CANCELLATION AND TERMINATION**

### **8.1 Changes**

The Customer has the right to require qualitative and/or quantitative changes to the Service or delivery deadline, and to procure additional services, provided that the change lies within what the Parties could reasonably have expected on the establishment of the Contract.

Changes to or additions to the agreed Services shall be agreed in writing.

The Supplier is entitled to adjustment of deadlines and remuneration for additional work, and to reimbursement of any direct costs that the change entails, in accordance with the following principles:

- If the Contract includes unit prices and/or quoted hourly rates that apply to the change, these must be used to compensate the Supplier. The unit prices and/or hourly rates will also be used if the change applies to services that are relatively similar to the services for which unit prices/hourly rates are stipulated in the Contract.
- If there are no unit prices or hourly rates stipulated in the Contract that are applicable, the compensation for the change will be based on the general price level in the Contract for the services. If this is not possible, the compensation for the change will be based on the market price.

If the change entails savings for the Supplier, these must be deducted from the remuneration in the same way.

At its own initiative, or at the request of the Customer, the Supplier must provide a specified estimate of the consequences of the change for the contract price and the deadlines in the Contract.

If the Parties disagree on the amount to be added to or subtracted from the contract price, or on other consequences resulting from the change, the Supplier must nonetheless implement the change without awaiting a final solution between the Parties concerning the consequences.

### **8.2 Temporary suspension and cancellation**

The Customer may require temporary suspension of the execution of the Contract, or may cancel the Services. This must take place in writing.

In the event of temporary suspension or cancellation, the Supplier may require:

- a) The amount due to the Supplier for the work already performed
- b) The Supplier's documented and direct costs related to the reallocation of personnel
- c) Other direct costs incurred by the Supplier as a consequence of the cancellation

For the sake of good order, the Supplier is not entitled to payment of the remainder of the contract price at the time of cancellation.

### **8.3 Termination of agreement**

The Customer may cancel the Contract with three (3) months' written notice, on objective grounds. Objective grounds include cases of material changes to the Contract requiring the Customer to hold a new competition in accordance with the procurement regulations.

The Supplier is not entitled to compensation of the contract value in the event of termination on objective grounds.

## **9 BREACH**

### **9.1 *What is considered a breach***

A breach will occur if the Services are not in accordance with the descriptions, requirements, solutions and deadlines agreed in the Contract. A breach will also occur if the Parties fail to fulfil other obligations under the Contract.

After the Contract is established, an expected breach will exist when it is clear from the Supplier's conduct, severe lack of creditworthiness, ability to fulfil the complete contract obligations or a substantial part of the contractual obligations

### **9.2 *Claims***

A Party must raise a claim in writing to the other Party within a reasonable time after the breach is discovered or should have been discovered.

### **9.3 *Correction***

The Customer may require the Supplier to correct the defect in the Services at the Supplier's own expense, if this can take place without imposing unreasonable costs or inconvenience on the Supplier.

The Supplier must remedy the breach within a reasonable time after the Customer has so required, or in accordance with the agreed deadline.

Even if the Customer does not require this, the Supplier may, at the Supplier's own expense, correct the defect or perform a new service, when this can take place without significant inconvenience to the Customer and without the risk that the Customer's outlays will not be reimbursed by the Supplier. The Supplier must notify the Customer before such correction is implemented.

### **9.4 *Extension of deadline***

The Customer may set a reasonable extended deadline for the fulfilment of the Supplier's obligations.

The Customer may not invoke any instruments of breach for the duration of the extended deadline, unless the Supplier has given notice that the Supplier will not fulfil the obligations within the extended deadline.

The extended deadline will not affect the Customer's right to daily penalties or damages accumulated before the extended deadline was granted.

### **9.5 Correction and delivery of a new service from another supplier**

If the Supplier does not correct the defective Services or perform a new service in accordance with clauses 9.3 and 9.4 above, the Customer will be entitled on a reasonable basis to have the Services rectified or to have an equivalent service performed by another supplier at the Supplier's expense.

### **9.6 Price reduction**

If correction is not possible or does not take place within a reasonable time, the Customer may require a proportional price reduction. The price reduction is compensation for the reduced value of the deliverable, and is in addition to any damages.

### **9.7 Withholding of payment**

In the event of breach, the Customer may withhold payment, but not more than necessary to secure the Customer's claim as a consequence of the breach. The same applies to expected breach. The Supplier may withhold services as a consequence of the Customer's breach, but only if the breach is material. The same applies to expected breach.

### **9.8 Daily penalties**

If the Supplier fails to comply with the contractual deadlines, this will be a delay that provides a basis for daily penalties. The Customer may claim daily penalties as from the time that the Supplier is delayed.

Unless otherwise agreed, the daily penalty is 0.15 % of the total contract price excluding VAT per calendar day of the delay, limited to one hundred (100) calendar days. The daily penalty will nonetheless amount to a minimum of NOK 1,000 per calendar day.

For as long as daily penalties apply, the Customer may not terminate the contract. This will not apply if the Supplier or any person for whom the Supplier is liable has shown gross negligence, or has otherwise acted in violation of integrity and good faith.

If the daily penalty does not cover the Customer's documented direct loss as a consequence of the delay, the Customer may claim damages for the excess amount.

### **9.9 Termination**

In the event of material breach, the other Party may, after giving the Party in breach written notice and a reasonable deadline to rectify the matter, terminate all or parts of the Contract with immediate effect. The same applies in the event of expected breach, unless the other Party provides adequate security.

The Customer shall be entitled to terminate the Contract with immediate effect if, in connection with the Supplier's activities, debt negotiations, a scheme of arrangement or bankruptcy proceedings are opened, or any other form of creditor management applies, or if the Supplier is subject to liquidation, has suspended their activities or is in an equivalent process under the provisions of national Acts and regulations.

The Customer shall furthermore be entitled to terminate the Contract with immediate effect if the Supplier is legally convicted of participation in a criminal organisation, or for corruption, fraud or money laundering, or is found guilty of criminal offences relating to professional conduct.

#### **9.10 Effects of termination**

If the purchase is fully or partially fulfilled, what has been received can be required to be returned. The Party liable for breach covers any costs of return.

The Customer can demand reimbursement of what has been paid, with the addition of late payment interest from the date of payment.

The Supplier can claim a reasonable deduction for the value of any significant benefit the Customer has had from the delivered goods or services.

Reimbursement and costs of return are in addition to any damages.

#### **9.11 Damages and limitation of damages**

A Party may claim compensation for any direct loss and claim resulting from breach of contract by the other Party or any party for which such Party is liable, unless the Party in breach proves that the breach or the cause of the breach is not due to the Party in breach. Direct costs include, but are not limited to, costs incurred by the Customer for replacement services, outlays and costs as a consequence of additional work in the Customer's organisation.

Daily penalties will be deducted from any damages for the same delay.

Indirect losses will not be covered. The damages will be limited to the sum of the total remuneration under the Contract excluding VAT.

These limitations will not apply, however, if employees of the Party in breach or any party for which such Party is liable, have shown gross negligence or wilful misconduct.

## **10 OTHER PROVISIONS**

### **10.1 Risk and responsibility for communication and documentation**

The Parties must ensure appropriate communication, storage and backup of documents and other material of significance to the Services (including email and other electronically stored materials).

The Parties hold the risk and responsibility for all material, regardless of form, that might be damaged or destroyed while under such Party's control.

### **10.2 Use of subcontractors and third parties**

If the Supplier wishes to use a subcontractor, this will require the Customer's prior written consent. Consent may not be unreasonably withheld.

If the Supplier engages a subcontractor or the Customer engages a third party to perform tasks under this Contract, the Party shall be fully responsible for the performance of these tasks in the same way as if the Party itself was responsible for this performance.

### **10.3 Transfer of rights and obligations**

The Parties may not transfer any rights or obligations under this Contract to any third party without the prior written consent of the other Party. Consent may not be unreasonably withheld.

If the Supplier undertakes restructuring, including merger or demerger, the Customer shall have the right to terminate the Contract immediately. This will apply irrespective of whether the new supplier fulfils the original qualification requirements.

### **10.4 Force majeure**

No Party will be in breach of the Contract if its performance is impeded by events beyond the Party's control which could not have been foreseen by the Party on the establishment of the Contract and which the Party cannot reasonably overcome (hereinafter referred to as "Force Majeure"). Force Majeure incidents include fires, epidemics, natural disasters, power outages and general strikes.

If a Party wish to invoke Force Majeure, they must notify the other Party without undue delay.

If the Force Majeure situation lasts longer than ninety (90) calendar days, either Party may cancel the Contract with fourteen (14) calendar days' notice.

### **10.5 Advertising**

The Supplier must obtain the Customer's prior written approval if the Supplier wishes to disclose information about the Contract to the general public other than naming the Contract as a general reference.

### **10.6 Insurance**

The Supplier must hold insurance to cover any loss and damage that may occur under the Contract and which is the customary insurance in the industry to which the Supplier belongs. On request, the Customer will be entitled to inspect the Supplier's insurance policies.

The Customer is state-owned and is therefore a self-insurer.

## **11 SOCIAL RESPONSIBILITY**

### **11.1 General**

The Customer and the Supplier must exercise social responsibility in the performance of the Contract, in terms of environment, climate, pay and working conditions as well as ethical trade, ref. the Contract's appendices.

### **11.2 Environment**

The Customer wishes to operate with the least possible environmental impact. The Supplier is therefore obliged to fulfil the Contract on an environmentally friendly basis and to promote climate-

friendly solutions where possible and appropriate, including in the choice of equipment and transport solutions, as well as waste minimisation and recycling solutions.

### **11.3 Pay and working conditions in Norway**

The Supplier is responsible for ensuring that their own employees and employees of subcontractors (including hired contractors) have pay and working conditions in accordance with Norwegian legislation, including the Norwegian Act no. 58 of 4. June 1993 relating to general application of wage agreements (the General Application Act) (*Allmenngjøringsloven*) and the Regulation relating to pay and working conditions in public contracts of 8 February 2008, where applicable.

In these cases, the Supplier shall be obliged, on request, to document the pay and working conditions of their own employees and employees of any subcontractors (including hired contractors). The information must be documented by, among other things, a copy of the employment agreement, payslip, timesheets and the employer's bank statement.

### **11.4 Ethical trade**

The production of goods delivered to the Customer must be in accordance with the requirements in internationally recognised UN Conventions, ILO Conventions and national legislation on human rights and labour rights. The Supplier must comply with the eight fundamental ILO Conventions and work to ensure that its own subcontractors fulfil the requirements of the conventions.

If a violation of the above conventions is discovered, the Supplier must take measures to ensure compliance with the requirements, or ensure that cooperation with the relevant subcontractors is terminated.

## **12 EXPIRY OF CONTRACT**

### **12.1 Smooth transition**

On the expiry of the contractual relationship, irrespective of the reason, the Supplier shall be obliged to contribute to a smooth transition to any new supplier. This will not apply if the Contract has been terminated as a consequence of the Customer's breach or expected breach of the Contract.

### **12.2 Call-off orders**

Any call-off orders made, or work commenced prior to the expiry of the Contract must be performed even if this has to take place after the expiry of the contract period.

## **13 DISPUTES**

### **13.1 Governing law and legal venue**

The rights and obligations of the Parties under this Contract are governed in full by Norwegian law.

### **13.2 Negotiation and mediation**

In the event of any dispute between the Parties concerning the interpretation or legal effects of the Contract, it must first be sought to resolve the dispute by negotiation and/or mediation.

**13.3 Court or arbitration proceedings**

If a dispute cannot be resolved by negotiation or mediation, each of the Parties may require the dispute to be settled with final effect before the Norwegian courts. The legal venue will be the Customer's place of domicile.

Alternatively, the Parties may agree that the dispute will be settled with final effect by arbitration.