

General Terms & Conditions for Sale

1 Applicability. Definitions

- 1.1 These terms and conditions applies as long as the Parties have not agreed otherwise in Writing. These terms and conditions are based on NL 09 E.
- 1.2 In these conditions, Seller means Seal Engineering AS. Confirmation means Seller's order Confirmation. Buyer means the company and/or the person stated with name in the bill-to section on the Confirmation. Purchase Order means Buyer's Purchase Order. Seller and Buyer hereinafter individually referred to as Party and jointly referred to as Parties. The Product means the Goods, Engineering and Documents to be delivered according to the Confirmation.
- 1.3 When these conditions use the word Writing it means a document duly signed by both Parties. For a written notification, notice or when one Party in writing notify the other Party it may be considered not necessary with signature from both Parties.

2 General reservation

Seller's quote is based on existing conditions on the date the quote was submitted.

Seller has the right to make reasonable adjustments as a result of any changes not expected by Seller or outside Seller's control. Buyer will be given a written notice of that adjustment along with an updated quote, which will be deemed accepted if no objections have been received from Buyer within 5 working days.

3 The Contract

These terms and conditions are referred to as the Contract. The Contract contains all the terms and conditions agreed by either Party for the Product as stated in the Confirmation.

The Confirmation is binding unless Buyer within a reasonable time raise objections.

No amendment to the Contract shall binding on Seller unless otherwise agreed in Writing duly signed by both Parties.

4 Product information

All data in marketing materials, price lists and other product information are only binding to the extent that it is expressly referred to in the Contract or in additional agreement between the Parties.

5 Technical Documentation and Information

- 5.1 All technical documentation regarding the Product or its manufacture submitted by one Party to the other, prior or subsequent to the formation of the Contract, shall remain the property of the submitting Party.

Technical documentation received by one Party shall not without the written consent from the submitting Party, be used for any other purpose than that for which it was submitted. Except for documentation referred to in Clause 5.2, documentation may not without the written consent from the submitting Party be copied, reproduced, transmitted or otherwise communicated to a third party.

- 5.2 The Product is intended for Buyer or any third party with sufficient knowledge about the installation, commissioning, operation and maintenance (including running repairs) of all parts of the Product. Seller may at Buyer's request, provide technical documentation sufficiently detailed to permit Buyer to carry out installation, commissioning, operation and maintenance (including running repairs) of all parts of the Product.
- Any and all use of the Product is nevertheless subject to Buyer's sole risk and responsibility.

6 Sealing Solution Proposal [SSP]

- 6.1 For applications where no known solution exists, or circumstances indicating that a new solution must be obtained, Seller shall where appropriate suggest solution based on information from Buyer and proposal as described in Seller's SSP.
- Depending on the scope of SSP, the price for each SSP is in itself to be agreed between the Parties, from time to time. Depending on the scope and/or assignment, Seller will require a separate non-disclosure agreement before any assignment.

- 6.2 The SSP is based on Seller's experience, knowledge and Background. Buyer undertakes to check the SSP for the specific application(s) and if further investigation and/or testing should be performed.

- 6.3 When Buyer choose to issue a Purchase Order based on the SSP and its related quote, if any, Buyer undertakes all risk and responsibility. In such a case, the SSP becomes Buyer's requirements related to the Product. Seller does not undertake any liability in the individual case due to the diversity of the possible variations in the practical application in respect of the particularity of applications, further processing or the otherwise use of the Product.

- 6.4 Buyer is obliged to check whether Seller's Product correspond to the supplied data, recommendations and test results and undertakes full liability in respect of the application, use and further processing of the Product as well as the use of information.

- 6.5 No liability whatsoever shall attach to the Product produced by Seller for any infringement of the rights owned or controlled by a third independent party which may be caused by the use or further processing of the components by Buyer.

7 Intellectual Property Rights [IPR]

- 7.1 IPR includes but is not limited to, all commercial and technical information, know-how, trade secrets including all kinds of technology, ideas, concepts, drawings, inventions, formulas, processes, procedures, specifications, computer programs, data, patents, patent applications, trademark, trademark applications, designs and design applications, copyrights, and documentation or information together with copies of same irrespective of means of storage.

- 7.2 Background IPR means all IPR owned by, developed or licensed to a Party prior to entering into the Contract.

- 7.3 Foreground IPR means all IPR, which are related to the result of the SSP, an assignment or a Purchase Order from Buyer, which are not limited or restricted by definitions of Background IPR.

- 7.4 All Foreground developed by Seller or its subcontractors in connection with the SSP, the assignment or Purchase Order from Buyer, or otherwise originate from Seller shall be the property of Seller.

8 Indemnification

Each Party shall indemnify the other Party against any claims resulting from infringement of patent or any other intellectual property rights in existence at the date of the Contract, in connection with the assignment or Purchase Order where such an infringement results from the use of drawings or specifications provided by the indemnifying Party. Seller's responsibility related to infringement are limited to the country as corresponds to the delivery address as stated in the Purchase Order.

9 Cancellation

- 9.1 Buyer may by written notice to Seller cancel the Contract with the consequence that the performance of the Product ceases (cancellation).
- 9.2 Following such cancellation, Buyer shall pay to Seller for that part of the Product already performed and all reasonable costs incurred by Seller and its suppliers in connection with the cancellation of the Contract.
- 9.3 Payment shall be made in accordance with the provisions in Clause 14.

10 Terms of delivery

- 10.1 If not otherwise agreed in writing the terms of delivery is ex works Seller's address according to the prevailing INCOTERMS.
- 10.2 Buyer is obliged to examine the Product upon receipt for possible errors and/or omissions. Buyer must notify Seller in writing within 8 days from receipt of Product for possible errors and/or omissions.
- 10.3 If Seller does not receive notification as stated in Clause 10.2, Buyer shall pay for the Product in accordance with the Contract.

11 Time for delivery

Delivery date shall mean date of shipment from Seller as stated in the Confirmation.

12 Delay

- 12.1 If Seller finds that Seller will not be able to deliver the Product at the agreed time or if delay on Seller's part seems likely, Seller shall without undue delay notify Buyer thereof in writing, stating the reason for the delay and if possible the time when delivery can be expected. If Seller fails to give such notice, Seller shall, regardless of the provisions of Clauses 13.1 and 13.2 reimburse Buyer for any additional expenses, which the latter incurs and which Buyer have avoided, had Buyer received notice in time.
- 12.2 If delay in delivery is caused by a circumstance, which under Clause 18.1 constitutes ground for relief or by an act or omission on the part of Buyer, including suspension by Seller under Clause 13.4, the time for delivery shall be extended by a period, which is reasonable having regard to the circumstances in the case. The time for delivery shall be extended even if the reason for delay occurs after the originally agreed time for delivery.

13 Liquidated damages

- 13.1 If Seller fails to deliver the Product on time, Buyer is entitled to liquidated damages from the date on which delivery should have taken place.
- The liquidated damages shall be payable at a rate of one per cent of the agreed price for each commenced week of delay. If the delay concerns only a part of the Product, the liquidated damages shall be calculated on the part of the price, which is properly attributable to the part of the Product, which cannot be taken in use due to the delay.

The liquidated damages shall not exceed ten per cent of that part of the price on which it is calculated.

The liquidated damages become due at Buyer's written demand but not before the complete Product has been delivered or the Contract is terminated under Clause 13.2.

Buyer loses the right to liquidated damages if Buyer has not lodged a written claim for such damages within one month after the time when delivery should have taken place.

- 13.2 If the delay is such that Buyer has become entitled to maximum liquidated damages under Clause 13.1, and the Product is still not delivered, Buyer may in writing demand delivery within a final reasonable period which shall not be less than two weeks.

If Seller fail to deliver within such final period and this is not due to any circumstance for which Buyer is responsible, Buyer may, by written notice to Seller, terminate the Contract in respect of that part of the Product which cannot be taken in use due to the delay.

In case of such termination Buyer shall also be entitled to compensation for the loss Buyer suffers due to Seller's delay to the extent that the loss exceeds the maximum of liquidated damages which Buyer may claim under Clause 13.1. This compensation shall not exceed ten per cent of that part of the price, which is properly attributable to the part of the Product in respect of which the Contract is terminated.

Buyer shall also have the right to terminate the Contract by written notice to Seller if it is clear that there will be a delay, which under Clause 13.1 would entitle Buyer to maximum liquidated damages. In case of termination on this ground Buyer shall be entitled to both maximum liquidated damages and compensation under the third paragraph of this Clause.

Except for liquidated damages under Clause 13.1 and termination of the Contract with limited compensation under this Clause 13.2, all claims in respect of Seller's delay shall be excluded. The provisions set out in Clause 13 are Buyer's sole remedies against Seller's delay.

- 13.3 If Buyer finds that Buyer will be unable to accept delivery of the Product on the agreed date, or if delay on Buyer's part seems likely, Buyer shall without undue delay notify Seller thereof in writing stating the reason for the delay and, if possible, the time when Buyer will be able to accept delivery.

If Buyer fails to accept delivery on the agreed date, Buyer shall nevertheless make any payment which is dependent of delivery as if the Product had been delivered. Seller shall arrange storage of the product at Buyer's risk and expense. If Buyer so requires, Seller shall insure the Product at Buyer's expense.

- 13.4 Unless Buyer's failure to accept delivery as referred to in Clause 13.3 is due to any such circumstances as described in Clause 18.1, Seller may by written notice require Buyer to accept delivery within a reasonable period.

If, for any reason for which Seller is not responsible, Buyer fails to accept delivery within such period, Seller may, by written notice to Buyer, terminate the Contract in respect of that part of the Product already performed but has not been delivered due to Buyer's default. Following such termination Buyer shall pay for that part of the Product already performed according to Clause 14.

14 Payment

- 14.1 Unless otherwise agreed, payment shall be made against invoice 30 days after the date of the invoice.
- 14.2 Any objections to any invoice must be notified in written by Buyer to Seller within 8 days from receipt of invoice.
- 14.3 If Seller does not receive notification as stated in Clause 14.2, Buyer shall pay for the Product in accordance with the Contract.
- 14.4 If Buyer fails to pay in time, Seller shall be entitled to interest from the due date at the rate of interest determined by the law on late payments in Seller's country.

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- If Buyer fails to pay by the due date, Seller may also, after having notified Buyer in writing thereof, suspend performance of Seller's Contractual obligations until payment is made.
- 14.5** If Buyer fails to pay on time, Buyer will receive from Seller one – 1 written demand for payment within 14 days. If Buyer fails to pay within 14 days Seller will, without further notice, initiate debt collection procedures, and ultimately notify legal proceedings, pursuant to Clause 19. Buyer hereby acknowledges this.
- 15 Retention of title**
The Product shall remain the property of Seller until paid for in full, to the extent that such retention of title is valid.
This Clause does not regulate the ownership to IPR or the license to IPR. IPR is regulated in Clauses 5 and 7.
- 16 Liability for defects**
- 16.1** Seller shall, in accordance with the provisions of Clauses 16.2-16.13 below, remedy any defect in the Product resulting from faulty design, materials or workmanship.
Where Seller is liable for a defect Seller shall also be liable for damage to the Product that is caused by the defect.
Seller is not liable for defects arising out of material provided by Buyer or a design stipulated or specified by Buyer.
- 16.2** Seller's liability does not cover defect caused by circumstances, which arise after the risk has passed to Buyer. The liability does not, for example, cover defects due to conditions of operation deviating from those anticipated in the Contract or to improper use of the Product. Nor does it cover defects due to faulty maintenance or incorrect installation on the part of Buyer, alterations undertaken without Seller's written consent or faulty repairs by Buyer. Finally, the liability does not cover normal wear and tear or deterioration.
- 16.3** Seller's liability is limited to defects which appear within a period of one year from the date of delivery of the Product. If the Product is used more intensely than agreed, this period shall be reduced proportionately.
- 16.4** For parts, which have been repaired or replaced under Clause 16.1, Seller shall have the same liability for defects as for the original Product for a period of one year. For other parts of the Product the liability period defined in Clause 16.3 shall be extended only by the period during which the Product could not be used due to a defect for which Seller is liable.
- 16.5** Buyer shall notify Seller in writing of a defect without undue delay after the defect has appeared and in no case later than two weeks after the expiry of the liability period specified in Clauses 16.3 and 16.4. The notice shall contain a description of how the defect manifest itself. If Buyer fails to notify Seller in writing within the above time limits, Buyer loses the right to make any claim in respect of the defect.
If there is reason to believe that the defect may cause damage, notice shall be given forthwith. If notice is not given forthwith, Buyer loses the right to make any claim based on damage which occurs and which would have been avoided if such notice had been given.
- 16.6** After receipt of a written notice under Clause 16.5, Seller shall remedy the defect without undue delay. Within this limit, the time for remedial work shall be chosen in order not to interfere unnecessarily with Buyer's activities. Seller shall bear the costs as specified in Clauses 16.1-16.13.
Remedial work shall be carried out where the Product is, unless Seller with regard to the interest of both Parties finds it more suitable to have the Product sent to Seller or to a place instructed by Seller.
If the defect can be remedied by replacing or repairing the defective part, and if removal and re-installation of the part does not require special knowledge, Seller may demand that Buyer sends the defective part to Seller, or to a place instructed by Seller, for repair or replacement. In such case, Seller has fulfilled his obligations in respect of the defect when Seller delivers a duly repaired or replaced part to Buyer.
- 16.7** If remedy of the defect requires intervention in other equipment than the Product, Buyer shall be responsible for any work or costs caused thereby.
- 16.8** Seller's liability for remedial work is limited to collection of defective Goods and delivery of the Goods from and to Buyer's onshore base or site, when requested by Buyer.
- 16.9** Defective parts, which are replaced under Clause 16.1, shall be placed at Seller's disposal and shall become his property.
- 16.10** If Buyer gives such notice as referred to in Clause 16.5 and no defect is found for which Seller is liable, Seller shall be entitled to compensation for the work and costs which Seller has incurred as a result of the notice.
- 16.11** If Seller fails to fulfill his obligations under Clause 16.6 within a reasonable time, Buyer may by written notice require Seller to do so within a final time. If Seller fails to fulfill his obligations within that time limit, Buyer may at his option:
- Rectify the defect itself or to engage a third party to do so. In such cases Seller shall pay the necessary costs of remedial work, provided that Buyer acts in a reasonable manner, or
 - Demand a reduction of the agreed purchase price not exceeding twenty per cent thereof.
 - If the defect is substantial, Buyer may instead terminate the Contract by written notice to Seller. Buyer shall also be entitled to such termination where the defect remains substantial after measures referred to in a). In case of termination, Buyer shall be entitled to compensation for the loss Buyer has suffered. The compensation shall not, however, exceed twenty per cent of the agreed purchase price.
- 16.12** Regardless of the provisions of Clauses 16.1-16.11, Seller shall have no liability for defects in any part of the Product for more than two years from the start of the liability period referred to in Clause 16.3.
- 16.13** Seller shall have no liability for defects save as stipulated in Clauses 16.1-16.12. This applies to any loss the defect might cause, such as for example direct loss of any kind, loss of production, loss of profit and other consequential economic loss.
- 17 Exclusion of Liability. Indemnification**
- 17.1** Until Delivery Seller shall defend, indemnify and hold Buyer harmless from any and all liability for death, disease or injury to any third party and loss of or damage to any third party property and against all claims, losses, damages, costs and expenses, including legal fees resulting there from, arising out of the Purchase Order or caused by the Product. This applies regardless of any form of liability whether strict or by negligence, in whatever form, on the part of Buyer.
After Delivery Buyer shall defend, indemnify and hold Seller harmless from any and all liability for death, disease or injury to any third party and loss of or damage to any third party property and against all claims, losses, damages, costs and expenses, including legal fees resulting there from, arising out of the Purchase Order or caused by the Product. This applies regardless of any form of liability whether strict or by negligence, in whatever form, on the part of Seller.
- 17.2** Seller shall defend, indemnify and hold Buyer harmless from Seller's own indirect losses and damages, and Buyer shall defend, indemnify and hold Seller harmless from Buyer's own indirect losses and damages. This applies regardless of any liability, whether strict or by negligence, in whatever form, on the part of either Party. Indirect losses and damages according to this Clause include but are not limited to: loss of earnings, loss of business opportunity, loss of profit, loss due to pollution and loss of production.
- 17.3** Each Party shall indemnify the other Party from and against any claim concerning:
- Personal injury to or loss of life of any employee of any Party, and
 - Loss of or damage to any Property of any Party,
- and which might arise in connection with the Contract or be caused by the Product in their lifetime. This applies regardless of any form of liability, whether strict or by negligence, in whatever form, on the part of the Parties.
Each Party shall, as far as practicable, ensure that other companies affiliated to each Party in connection with this Contract waive their rights to make any claim against a Party when such claims are covered by the Parties obligations under the provisions of this clause 17.3.
- 17.4** By whatever incident or consequence arising, Seller's total liability is limited to the price as stated in the Confirmation or limited to that covered by Seller's insurance policy that applies to corporate liability, product liability, liability for mutual indemnification and liability for consulting engineering services.
- 18 Grounds for Relief (Force Majeure)**
- 18.1** The following circumstances shall constitute grounds for relief if they impede the performance of the Contract or makes performance unreasonable onerous: industrial disputes and any other circumstance beyond the control of the Parties, such as fire, natural disasters and extreme natural events, war, mobilization or military call up of a comparable scope, requisition, seizure, trade and currency restrictions, insurrection and civil commotion, shortage of transport, general shortage of materials, restrictions in the supply of power and defects or delays in deliveries by suppliers or sub-contractors caused by any such circumstance as referred to in this Clause.
The above-described circumstances shall constitute grounds for relief only if their effect on the performance of the Contract could not be foreseen at the formation of the Contract.
- 18.2** The Party wishing to claim relief under Clause 18.1 shall without delay notify the other Party in writing on the intervention and on the cessation of such circumstance.
If grounds for relief prevent Buyer from fulfilling his obligations, Buyer shall reimburse the costs incurred by Seller in securing and protecting the Product.
- 18.3** If a Force Majeure situation lasts for 180 days or more, or it is evident that it will do so, then each Party shall have the right to cancel the Contract by written notice to the other Party. The provisions of Clause 9 apply accordingly.
- 19 Disputes. Applicable Law**
The laws of Norway shall govern all disputes arising out of or in connection with the Contract. The Parties will attempt to resolve all conflicts in a positive atmosphere. If such negotiations are unsuccessful, the dispute may be brought before Oslo City Court.