



DALO Terms and Conditions without liquidated damages for delay GOODS (C)

1 Introduction

These terms and conditions regulate the Supplier's delivery to the Buyer of the Deliverables described in the Purchase Order.

Any terms, requirements etc. from the Supplier are not valid between the parties unless the Buyer has derogated from these terms and conditions in writing.

In case of inconsistency between the wording of these terms and conditions and the wording of the Purchase Order, the Purchase Order shall be given priority.

2 Definitions

"*Agreement*" means the Purchase Order and these terms and conditions collectively.

"*Buyer*" means the Danish Defence Acquisition and Logistics Organization (DALO).

"*Defect*" means the non-performance of the Deliverables, i.e. when the Deliverables do not conform to the provisions of the Agreement, applicable industry standards and/or good workmanship, or do not fulfill the Buyer's needs, where the Supplier is aware of these.

"*Defects Liability Period*" means a period in which the Supplier warrants that the Deliverables conform to all the requirements and provisions of the Agreement.

"*Deliverables*" means all products and services to be delivered by the Supplier under the Purchase Order.

"*Order Confirmation*" means the Supplier's written acceptance of the Agreement.

"*Purchase Order*" means the order sent by the Buyer to the Supplier, describing the Deliverables and any special conditions not included in these terms and conditions.

"*Supplier*" means the Supplier of the Deliverables.

"*Time of Delivery*" means the time for delivery stated in the Purchase Order or the Order Confirmation.

"*Warranty*" means a guarantee from the Supplier whereby the Supplier undertakes to repair or replace the Deliverables, when the Deliverables do not conform to all the requirements and provisions of the Agreement.

3 The Supplier's acceptance of the Agreement

The Supplier accepts the Agreement by forwarding an Order Confirmation.

Any changes to the Purchase Order, made by the Supplier, are not agreed unless the Buyer issues a new Purchase Order.

4 The Supplier's Obligations

4.1 Generally

The Supplier shall deliver all Deliverables specified in the Agreement at the Time of Delivery.

The Deliverables shall be in accordance with the quality standards applying to the concerned industry and good workmanship. The Deliverables shall furthermore be in compliance with all applicable regulations and standards, including those related to environmental and work safety matters at the Time of Delivery.

Partial deliveries shall not be made unless explicitly approved by the Buyer.

4.2 Documentation

A data sheet shall accompany the Deliverables in physical form and if possible also in the form of a link to a website.

To the extent possible the Deliverables shall also include product certificates, instructions for assembly, operating, safety and maintenance and any other information ensuring that the Buyer will be able to use and repair all parts of the Deliverables.

4.3 Warranty. Defects Liability Period

The Supplier's warranty shall be valid in the Defects Liability Period.

The Defects Liability Period shall cover a period of 12 (twelve) months and commences after the Delivery of each Deliverable.

In the Defects Liability Period, the Supplier represents and warrants that the Deliverables conform to all requirements in the Agreement, including all applicable industry standards and good workmanship

If the Deliverables are delivered successively according to the Agreement, a Defects Liability Period pertaining to the Deliverables in question commences separately for each Deliverable.

If the Supplier has offered a longer Defects Liability Period (warranty) on specific items, this shall apply. However, for the Defects Liability Period the Supplier's warranty must as a minimum comply with the requirements in the Agreement.

The Defects Liability Period shall be extended in case of delivery of defective Deliverables, so that a new Defects Liability Period begins for the part of the Deliverables in question when they have been delivered without Defects or made redelivery in accordance with clause 9.

In the Defects Liability Period the Supplier must remedy all Defects without cost to the Buyer.

4.4 Compliance with applicable law

During the performance of the obligations under the Agreement, the Supplier shall comply with all applicable laws governing the execution of the Supplier's business no matter where this business is carried out, including regulation of human rights, anti-corruption and environment.

Non-compliance shall be deemed to exist i.a. if the Deliverables or any work in the performance of the Agreement do not meet the requirements set out in this clause 4.6 and/or the Supplier fails to take appropriate remedial steps in this connection and/or the Supplier fails to deliver the documentation required in due time.

4.4.1 Corporate Social Responsibility (CSR)

In the performance of the Agreement the Supplier shall respect CSR by observing the principles of the UN Global Compact initiative and the provisions of ILO conventions Nos. 1, 26, 29, 30, 87, 98, 105, 131, 135, 138, 155 and 182. The Supplier may i.a. not make use of forced and child labour in contravention of these conventions.

Furthermore, the Supplier shall work against corruption and any other illegitimate influence in all its forms.

With respect to these obligations the Supplier is responsible for acts or defaults of any subcontractors, who contribute to the performance of the Agreement, as if they were the acts or defaults of the Supplier.

If the Supplier becomes aware of non-compliance in regard to the CSR requirements, or if proceedings are brought against the Supplier for such violation related to the CSR requirements, the Supplier must immediately, on its own initiative, inform the Buyer.

The Buyer is at any time entitled to request relevant documentation of compliance with the CSR requirements. However, as a general rule, the Buyer will not request documentation that the Supplier complies with the CSR requirements in the performance of the Agreement unless prompted by special circumstances, such as a suspicion based on actual observations and/or indications.

Relevant documentation shall as a minimum include a written statement and documentation of the production processes and / or methods used in manufacturing or delivering the Deliverables and of the materials used in the Deliverables.

The Supplier shall further state whether its own actions, including its choice of subcontractors or components, may have an impact on the compliance with the CSR requirements.

The written statement shall also describe any specific actions or measures taken by the Supplier to fulfill the CSR requirements and to reduce the risk of non-compliance.

The Supplier shall provide such documentation within 14 (fourteen) Days. In case of subcontractors the same relevant documentation must be submitted within reasonable time, however no later than 42 (forty-two) Days. In special circumstances the time limit can be extended by DALO upon a written and signed request from the Supplier stating the reasons.

On the basis of the written statement and documentation, etc., and taking all relevant circumstances into consideration, DALO will make an assessment of the individual incident.

4.4.2 ILO Convention No. 94 - Labour Clause

This Labour Clause does not apply to agreements concerning the purchase of Deliverables that are part of the Supplier's ordinary production or stocks, *off-the-shelf goods*, unless the product is manufactured in a custom-made production for the Buyer.

For work performed in Denmark in the performance of the Agreement the Supplier shall ensure that workers employed by the Supplier and any subcontractors who contribute to the performance of the Agreement are secured pay, including special allowances, hours of work and other working conditions which are no less favourable than those established for work of the same character under a collective agreement entered into by the most representative organizations of workers and employers in Denmark in the trade or industry concerned being in force throughout the territory of Denmark.

For work performed outside of Denmark in the performance of the Agreement the Supplier shall ensure that workers employed by the Supplier and any Subcontractors who contribute to the performance of the Agreement are secured pay, including special allowances, hours of work and other working conditions which are no less favourable than those established in accordance with applicable national regulations and legislation including international obligations for work of the same character performed in that country.

The Supplier and any subcontractors shall ensure that the workers are informed of the provisions of this Labour Clause.

The Buyer is at any time entitled to request relevant documentation of compliance with the conditions of pay and work for the workers as stipulated in this Labour Clause.

The Buyer may thus require that the Supplier, after written notice to that effect, within 14 (fourteen) Days provides relevant documentation, such as pay-slips, time sheets, payroll accounts and employment contracts establishing the basis for the conditions of work and calculation the payments.

In case of subcontractors the same relevant documentation must be provided within reasonable time, however no later than 42 (forty-two) Days. In special circumstances the time limit can be extended by the Buyer upon a written and signed request from the Supplier stating the reason.

If the Supplier does not provide the requested documentation within the stipulated time limits the Buyer is entitled to withhold amounts from its payments to the Supplier until the Supplier has provided the required documentation.

The Supplier shall in all cases redact any personal information such as information concerning racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, or data concerning health or sexual orientation from the supplied information in order to comply with applicable rules and legislation on personal data protection (currently the Act on Processing of Personal Data; *in Danish: Persondataloven* and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)).

If the Supplier fails to comply with its obligations pursuant to this Labour Clause, and if such non-compliance results in a legitimate claim for additional pay to the workers, the Buyer is entitled to withhold amount covering such additional payments from its payments to the Supplier (the Price) in order to ensure that this Labour Clause and the labour conditions are met.

4.5 Confidentiality

The Supplier shall treat as confidential all information received in connection with this Agreement and is not entitled to publish or in any other way disseminate the information received to the public or any third parties with the exception of information submitted to subcontractors for the sole purpose of carrying out this Agreement.

4.6 Insurance

The Supplier shall maintain customary insurances, including product liability insurance covering the Supplier to an extent that corresponds to the Agreement.

The Supplier shall on the Buyer's request provide documentation that the insurance requirement has been complied with.

5 Delivery

5.1 Terms of delivery

The terms of delivery shall be:

FCA, Supplier's facility, Incoterms® 2010, unless otherwise agreed in the Purchase Order.

The address of the Supplier's facility is specified in the Purchase Order.

5.2 Time of Delivery

The Supplier shall deliver the Deliverables at the Time of Delivery. If it is not possible for the Supplier to comply with the Time of Delivery stated in the Purchase Order, the Supplier shall indicate an alternative Time of Delivery in the Order Confirmation. If such Time of Delivery is unacceptable to the Buyer, the Buyer is entitled to reject the Order Confirmation.

6 Packaging and Delivery Note

6.1 Packaging

The Supplier is responsible for ensuring that the Deliverables are properly packed, taking into account the mode of transportation and the distance of the transportation.

If the Deliverables contain dangerous goods or other goods that require special handling, information regarding the handling must be submitted with the Deliverables and stated in the delivery note.

If the package contains dangerous goods, the individual items, parcels and packages must be packed using the proper UN approved and certified packaging in accordance with the TA/ICAO regulations.

6.2 Delivery note

All Deliverables shall be accompanied by a delivery note containing - as a minimum - the following information:

- (i) Purchase Order number,
- (ii) Reference to the position number(s) on the Purchase Order of the products delivered,
- (iii) The quantity of products per position number,
- (iv) the quantity of all products covered by the delivery note.

The Supplier shall ensure that any subcontractors undertake to comply with the above mentioned terms.

7 Prices

All prices are fixed. All prices are quoted exclusive of VAT, but inclusive of all other costs, that the Supplier is obligated to pay in accordance with clause 5.

Any discounts shall be specified in the invoice.

8 Payment

8.1 Payment conditions

The Buyer shall pay all invoices no later than 30 (thirty) calendar days after the Supplier has electronically forwarded the invoice, provided that it has been accepted and contains all relevant information. Any cash discount will be calculated on the day of payment.

Payment from the Buyer in accordance with the provisions of the Agreement shall not in any way constitute approval by the Buyer of the quality or timely receipt of the Deliverables in accordance with the general rules of Danish law.

8.2 Invoices

8.2.1 Domestic Suppliers

Domestic Suppliers shall submit invoices in accordance with the Danish Public Payments (Consolidation) Act No. 798 dated 28 June 2007 (lovbk. nr. 798 af 28. juni 2007 om offentlige betalinger m.v.) concerning electronic invoicing to:

Forsvarsministeriets Regnskabsstyrelse (Danish Defence Accounting Agency)
Arsenalvej 55
9800 Hjørring
Denmark

The invoice shall be submitted in OIUBL format with reference to purchase order number 45-0000xxxx, electronic invoicing address, EAN location number and reference person / staff number to the contact person from the Buyer assigned to the Agreement. Further information is available at:
<http://oiubl.info/classes/da/index.html>

The Danish Defence Accounting Agency will not accept invoices submitted from a scanning bureau (virk.dk can however be used).

Further information or enquiries concerning payment, e.g. credit note, reminder etc., shall be submitted by email to FRS-KTP-KRE@mil.dk.

8.2.2 Foreign Suppliers

Foreign Suppliers shall submit invoices in PDF format referring to purchase order number 45-0000xxxx, and reference person / staff number to the contact person from the Buyer assigned to the Agreement. Invoices shall be attached to an email message addressed to FRS-KTP-KRE-INVOICE@MIL.DK and FMI-KTP-FDD-IMPORT@MIL.DK.

If possible, the foreign Suppliers can submit the invoice electronically in OIUBL format.

If foreign Suppliers have a Danish CVR number the terms applicable to domestic Suppliers become effective, cf. clause 8.2.

8.2.3 All Suppliers (both domestic and foreign)

If an electronic invoice does not comply with the requirements above, the invoice will be rejected and returned as incorrect and no payment will take place. Likewise, no interest will be paid for the period until a correct electronic invoice has been submitted and the payment deadline has passed.

Any other information or enquiries concerning payment, e.g. credit note, reminder etc., shall be submitted by email to FRS-KTP-KRE@mil.dk.

9 Defects

The Supplier is responsible for Defects within the Defects Liability Period.

If the Deliverables do not conform to the provisions of the Agreement, applicable industry standards and/or good workmanship the Buyer is entitled to the remedies in connection with defects, including request for repair, redelivery, price reduction or termination of the Agreement, as set out in the Danish sales law (in Danish: Købeloven).

10 The Supplier's delay

The Supplier shall immediately notify the Buyer of any delays in relation to the Time of Delivery and inform the Buyer of the reason for the delay and state a new Time of Delivery.

The Buyer can terminate the Agreement, if delivery has not been performed within a period of 2 (two) weeks after the Time of Delivery.

11 Liability Cap

Neither the Supplier nor the Buyer shall be liable for business interruption loss, loss of profit or other indirect losses.

The Supplier's liability shall be limited to the total price for the Deliverables. This liability cap shall not apply in case of willful misconduct or gross negligence.

In regards to property damage the liability cap shall only apply to product liability that exceeds the insurance coverage. The liability cap shall neither apply to personal injury nor in case of the Supplier's non-performance of its obligation to take out product liability insurance in accordance with clause 4.6.

12 Law and venue

Any dispute arising out of or in connection with the Agreement shall be governed by Danish law, substantive as well as procedural, however, excluding choice-of-law rules and the United Nations Convention on the International Sale of Goods (CISG).

Any dispute as mentioned above, including any disputes regarding the existence, validity or termination of the Agreement, shall be settled by the Danish ordinary courts of justice.

Trade - without liquidated damages