

IKM-I-K-07E General terms and conditions for purchase of services			Side 1 av 7
IKM Gruppen			
Dok.ID/ Doc.ID:	002274	Opprettet/Created:	2009.05.13
Gyldig fra/Valid from:	2018.02.22	Rev.nr/Revision:	007
Forfatter/Author:	Flesjaa Line (Gruppen)	Eier(rolle)/Owner(role):	IKM Saksbehandler / Case worker
Godkjent av/Approved by:	Klyve Ingjerd	Firma/Company:	IKM Gruppen



1. GENERAL


- 1.1 These general conditions shall apply to all services performed for the buyer, unless otherwise agreed in writing.
- 1.2 If the supplier uses or refers to other general or special conditions of sale, for instance in his order confirmations or invoices, conditions of contract, such deviations shall be deemed not to apply, unless otherwise explicitly agreed in writing.

2. SERVICE AGREEMENT

- 2.1 An agreement for the performance of services shall be made either in the form of: a) a written service order and a written order confirmation, or b) a separate written agreement document. Oral orders that are not confirmed in writing shall be considered invalid.

3. REQUIREMENTS FOR QUALITY ASSURANCE AND HSE

- 3.1 The seller shall have a satisfactory quality assurance and HSE system appropriate for the purchase. Relevant system requirements based on ISO 9001, OHSAS 18001 and ISO 14001 or similar shall be complied with.
- 3.2 The Seller shall ensure that all materials used in production or processes meet the health, safety and environmental regulations applicable in the country of production and sale.
- 3.3 The Seller shall ensure that the IKM-HMS-F02BE Code of Conduct, the UN human rights and the ILOs guidelines are met.
- 3.4 The Seller shall ensure that the deliveries/products comply with the (requirements stipulated in the chemicals lists published by the regulatory authorities.) regulatory authorities requirements for chemicals.
- 3.5 When chemical substances or products are supplied the Seller is responsible for ensuring that the statutory safety data sheets are registered/will be registered and maintained in the Product Information Database (PIB) in Norwegian, and for meeting the associated costs.
- 3.6 The buyer shall have the right to perform quality audits at the seller's and his suppliers' premises.
- 3.7 The buyer has, at any time, the right to perform inspections and controls at the seller's and/or the seller's suppliers' premises in order to verify that goods are made according to the agreed requirements and the seller shall assist the buyer at such inspections. Furthermore, the seller shall provide test protocols, material certificates, calculations and other documentation which the buyer may request.
- 3.8 It is the seller's responsibility, immediately and on his own account, to rectify any errors or defects that are detected through the buyer's inspection, control and audit.

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3.9 The buyer's performance or omission of inspections, controls or audits shall not relieve the seller from the responsibility to ensure that the delivered goods and services comply with agreed requirements.

4. PERFORMANCE OF THE SERVICE

4.1 The supplier shall perform the services in accordance with the specified requirements, specifications, etc., and in accordance with recognised technique and first-class workmanship with reference to applicable industry standards.

4.2 The service shall be carried out in accordance with applicable legislation and regulations. The supplier shall obtain and maintain all permits required in connection with the services, and at the buyer's request present documentation that the required permits have been obtained.

4.3 In addition to what is specified in the service agreement, the services include procurement and delivery of all materials, consumables, drawings, calculations etc. which are necessary for the completion of the services, unless otherwise explicitly agreed.

4.4 The supplier shall not assign important parts of the service to sub-contractors without the buyer's written consent. Such consent does not exempt the supplier from any obligations or liability..

4.5 The buyer is not to be regarded as an employer of the supplier's personnel, even if such personnel carry out the services or parts thereof in co-operation with the buyer and/or at the buyer's business premises.

4.6 The supplier's personnel defined as key personnel shall not be replaced without the buyer's approval.

4.7 The supplier shall, at his own expense, ensure immediate replacement of personnel who behave reprehensibly or are not fit to carry out the service.

5. PROGRESS AND COMPLETION OF THE SERVICE

5.1 The supplier shall carry out and complete the service in accordance with the agreed time schedule. If such time schedule has not been agreed, the service shall be completed within reasonable time compared with what is normal for performing similar services.


5.2 When the supplier considers the service, or an agreed part thereof, to be completed, he shall immediately notify the buyer in writing. Within a reasonable time upon receipt of such notification, the buyer shall confirm in writing either that the service is accepted as complete, or give notification of what he considers being outstanding.

6. VARIATIONS

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- 6.1 The buyer is entitled to prescribe such variations to the service which he considers required, and the supplier has a duty to carry out such variations provided that they are within that which the parties could reasonably have expected when the agreement was entered into. Such variations may include, but are not limited to, changes in the scope of the service, changes in the technical specifications, suspension of the service, as well as changes to the time schedule.
- 6.2 If the supplier finds that notified variations will result in changes to the agreed price or the time schedule, he shall notify the buyer in writing prior to implementation of the variation. If he fails to do so, he loses the right later to claim price increase or extension of the time schedule as a result of the variations.
- 6.3 Compensation for variations shall be in accordance with the original price level in the agreement. Should the changes result in savings for the supplier, these should automatically be credited to the buyer.
- 6.4 If the parties disagree on the effect on the price of a variation, the supplier shall nevertheless implement it if the buyer requests so without awaiting a final solution of the dispute.
- 7. CANCELLATION**
- 7.1 The buyer may cancel the service in whole or in part with immediate effect by written notice to the supplier.
- 7.2 Following such cancellation the buyer shall pay the supplier for all work already performed, and for all necessary and documented expenses resulting directly from the cancellation. Apart from this the supplier has no right to compensation as a result of such cancellation.
- 8. PAYMENT**
- 8.1 The buyer shall pay to the supplier the price stated in the agreement. The price shall be fixed and exclusive of VAT and shall include all work and obligations necessary in order to fulfil the service and which are not specifically excluded.
- 8.2 If a fixed price or an upper price limit has been agreed for the service or parts thereof, this represents the maximum compensation to which the buyer is entitled, unless the buyer has accepted further compensation in writing.
- 8.3 If payment for the service shall be in accordance with accrued time or quantities, the supplier shall provide for registration of the time or quantities being the basis for payment and ensure that these are regularly approved by the buyer.
- 8.4 Unless a different invoicing schedule has been agreed, the supplier shall, at the latest 10 days after accepted completion of the service or agreed part of the service, send to the buyer a specified invoice for the services rendered. Approved timesheets, measurement sheets or other documentation shall be attached to every invoice.

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- 8.5 Unless otherwise agreed, payment shall be made 60 days after receipt of correct invoice.
- 8.6 All invoices shall include contract number and other references which might have been agreed and state clearly what the amount relates to. Invoice fees etc. are not acceptable. The buyer is entitled to return invoices which do not meet with these requirements.
- 8.7 If it has been agreed that the supplier shall provide a bank guarantee, the buyer is not obliged to make payments until he has received such a guarantee. The same applies if it has been agreed that the supplier shall provide copies of insurance certificated or similar.
- 8.8 The buyer may make deductions in the received invoice for advanced payments made, disputed or inadequately documented amounts, or any amounts owed by the supplier to the buyer or other companies in the IKM Group.
- 8.9 The supplier shall within 90 days after the buyer has accepted the performance of the service, forward a final invoice comprising all the supplier's outstanding claims in connection with the service. The supplier cannot at a later stage forward claims which have not been presented within the said deadline.
- 8.10 If the supplier fails to submit documentation of mandatory payment of tax, the buyer is entitled to withhold any invoiced amount until the supplier has documented that such payment has been made or provided adequate security for such payment. The supplier shall indemnify the buyer from and against any claim as a result of the supplier's non-payment of applicable tax.
- 8.11 For a period up to 2 years after receipt of the final invoice, the buyer is entitled to carry out an audit of the supplier with respect to work carried out as per account rendered.
- 9. DELAY**
- 9.1 Delay occurs if the supplier does not perform the service in accordance with the time schedule which follows from clause 4.
- 9.2 If the supplier has reason to believe that the performance of the services will be delayed, he shall immediately notify the buyer in writing. The notification shall state the reason for the delay, assumed impact on the time schedule and also propose measures to limit the delay. If the supplier fails to give such notification, he is, irrespective of the regulations in clause 8.4, liable for the loss suffered by the buyer and which could have been avoided had the supplier notified the buyer in due time.
- 9.3 The supplier undertakes to limit any delay and its adverse effects on his own account; unless the delay is due to circumstances the buyer is responsible for.

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9.4 Unless otherwise agreed, in case of delay which is not due to force majeure or circumstances for which the buyer is responsible, the supplier shall pay the liquidated damages for each calendar day of delay. Liquidated damages per day shall amount to the higher of a) NOK 5.000 or b) 0,3% of the total compensation to be paid for the service. Liquidated damages shall however not exceed 15% of the total compensation for the service.

9.5 If the delay is due to faults or negligence on the part of the supplier or someone for whom he is liable, the buyer may instead of liquidated damages claim damages according to law for the full economic loss he may suffer as a result of the delay, irrespective of the limits stated in clause 8.4.

9.6 The buyer may terminate the agreement if the delay gives him the right to maximum liquidated damages or represents fundamental breach of contract, or it is evident that such delay will occur.

10. GUARANTEE AND DEFECTS

10.1 The supplier guarantees that the service fulfils the agreed requirements and that the service is without defects of any kind. In addition the supplier guarantees that all work performed, including any engineering work, is carried out in a professional manner and suitable for its intended purpose.


10.2 If a defect is detected, the buyer shall complain in writing within reasonable time but no later than 24 months after completion of the service. For rectification work an equivalent period allowed for complaints shall apply from the time the repair work is completed. The time limit for complaints does not run as long as the rectification or similar activity is carried out in order to bring the service in accordance with the agreement.

10.3 If the buyer makes a complaint, the supplier shall immediately rectify the defect on his own account. Rectification may be postponed if the buyer has justifiable basis to demand so.

10.4 If the supplier does not carry out necessary rectification work within reasonable time, the buyer is entitled to carry out the rectification himself or by others for the supplier's risk and account. The same applies if be of substantial inconvenience for the buyer to wait for the supplier's rectification. In such cases the supplier shall be notified before any rectification is carried out.

10.5 If the supplier does not rectify the defect within reasonable time or does not rectify the defect completely, the buyer is entitled to a proportionate price reduction.

10.6 The buyer is entitled to terminate the agreement if the defects constitute fundamental breach of contract.

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10.7 The buyer may also claim damages according to law for any loss suffered as a result of defects. If the result of the service suffers from defects of such kind that it cannot be used for the buyer's intended purpose, then the buyer may instead of damages according to law choose to claim liquidated damages pursuant to clause 8.4 for the period which the result of the service cannot be used.

11. FORCE MAJEURE

11.1 Force majeure means an occurrence beyond a party's control, which he should not have foreseen when the agreement was entered into and which, or the consequences of which, he cannot reasonably be expected to overcome or avoid.

11.2 None of the parties shall be considered in breach of an obligation under the agreement to the extent he can establish that compliance has been prevented by force majeure.

11.3 Each party shall cover his own costs as a result of force majeure. The supplier is not entitled to any compensation as long as the performance of the service is prevented as a result of force majeure.

11.4 The party invoking force majeure shall immediately notify the other party of the force majeure situation, its cause and estimated duration.

12. INSURANCE

12.1 The supplier shall, on his own expense, take out and maintain a liability insurance appropriate to the supplier's activity and the nature of the service, and in addition, on the buyer's request, present an insurance certificate which documents that such insurance is in force.

13. RIGHTS TO RESULTS

13.1 Unless otherwise agreed, the buyer shall gain exclusive proprietary right to the results of the service as it is carried out. All reports, drawings, specifications and similar documents as well as software generated in connection with the service, are parts of the result of the service.

14. CONFIDENTIALITY

14.1 All information which the parties exchange, shall be kept confidential and not disclosed to a third party without the other party's written consent.

14.2 However, one party may make such information available to a third party it is was already known at the time the information was received, is or becomes generally known in some other way than due to a mistake made by one of the parties, or is lawfully received from others without a confidentiality obligation.

14.3 The parties may also transfer information to a third party to the extent it is necessary for the fulfilment of the agreement, provided such third party is imposed the same confidentiality obligations as follow from this clause 13.

15. INFRINGEMENT OF PATENT

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15.1 The supplier shall indemnify the buyer from any claim caused by the performance or the results of the service or their application representing an infringement of a third party's patent rights or other immaterial rights, except when this is the result of the buyer's instruction or specifications and the supplier did not know or should not have known that such infringement existed.

16. ASSIGNMENT

16.1 The buyer may assign his rights and obligations under the agreement in whole or in part to others. The supplier may not assign his rights and obligations under the agreement without the buyer's written consent.

17. CHOICE OF LAW AND LEGAL VENUE

17.1 These general conditions and any agreement entered into on the basis of these conditions shall be governed by and construed in accordance with Norwegian law.

17.2 Any disputes regarding the agreement which are not settled amicably shall be settled by legal proceedings unless the parties agree otherwise. In such case the legal proceedings shall take place at the Stavanger District Court.