# Introduction

These Conditions regulate the delivery from the Seller to the Buyer of the Services and Spare Parts described in the Purchase Order.

Any terms and conditions from the Seller are not valid between the parties unless the Buyer has explicitly derogated from these Conditions by way of a written amendment.

These Conditions, including any amendments, and the Purchase Order shall be construed as mutually explanatory. In case of any inconsistency between these Conditions and the Purchase Order, the latter shall be given priority.

# Definitions

*"Spare Parts"* means any supplies that the Seller provides in connection with the performance of the Services, either because these supplies are requested in the Purchase Order or because they are necessary for performing the Services in question.

*"Agreement"* means the Purchase Order and these Terms and Conditions collectively.

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

"*Certificate of Conformity*" means a document from the Seller to the Buyer stating that Spare Parts, are in conformity with the requirements of the Agreement.

*"Conditions"* means these Terms and Conditions for trade with the Danish Defence Acquisition and Logistics Organization.

"*Day*" means a calendar day.

*"Defect"* means when the Services are not performed in accordance with the Agreement or when Spare Parts do not conform with the Agreement, or when Services or Spare Parts do not satisfy the Buyer's reasonable expectations.

*"Defects Liability Period"* means a period of 12 (twelve) months from the time of completion of the Services.

*"Delay"* means when the Seller fails to perform the Services and/or deliver the Spare Parts at the agreed time, cf. clause 4.3, and this is not due to force majeure or to circumstances for which the Buyer is responsible.

*"Price(s)"* means the price(s) for the Services and/or Spare Parts stated in the Purchase Order. The Prices can be stated either as a fixed price covering all Services and/or Spare Parts to be delivered in accordance with the Agreement or as unit prices (e.g. hourly rate(s), inspection fees, prices for individual Spare Parts, etc.).

*"Purchase Order"* means the order which the Buyer has submitted to the Seller describing the Services and, if applicable Spare Parts, to be delivered as well as the specific terms of the delivery not covered by these Conditions.

*"Seller"* means the seller of the Services and Spare Parts to whom the Purchase Order has been issued.

"*Services*" means all services that the Seller shall perform according to the Agreement.

"*Warranty*" means a guarantee from the Seller that the Services and/or Spare Parts are without Defect(s) and in full accordance with the Agreement, including all applicable standards, regulations and good workmanship.

*"Work and Services Report"* means a written report from the Seller describing the Services that has been performed and, if applicable, the Spare Parts delivered.

The above mentioned definitions apply to the use of the words and phrases in both the singular and plural and the definite and indefinite forms.

# The Seller's acceptance of the agreement

The Seller shall accept the terms of the Purchase Order and these Conditions in their entirety, either by:

(1) confirming the Purchase Order within 14 (fourteen) Days from the receipt, or

(2) signing the Purchase Order.

If the Seller has made any changes to the Purchase Order, these are not valid unless a new Purchase Order is issued by the Buyer or an amendment is made to the original Purchase Order by the Buyer.

These Conditions cannot be derogated in any way unless expressly permitted by the Buyer in a written amendment to the Conditions.

# The Seller's obligations

## Quality

The Services shall in content and function fulfill all requirements in the Agreement. If the Purchase Order does not stipulate a specific standard of performance, the Seller shall apply best industry practice relevant to the Services.

The Services shall furthermore be performed by qualified and trained personnel.

Any Spare Parts shall fulfill all requirements in the Purchase Order, including but not limited to production method, materials, form, function, etc. If the Purchase Order does not stipulate a specific standard of design, development, or production, the Seller shall apply best industry practice relevant to the Spare Parts.

The Services and Spare Parts shall furthermore be in compliance with all applicable regulations and standards, including those related to environmental and worksafety matters, at the time of delivery.

## Supply of Spare Parts

The Seller shall supply the Spare Parts that are necessary in order to perform the Services covered by the Purchase Order, also if these are not specifically requested in the Purchase Order, and any additional Spare Parts that are requested in the Purchase Order.

If it is stated in the Purchase Order that the Seller shall supply additional Spare Parts not used in the performance of the Services, such Spare Parts shall be delivered by the Seller no later than when the Services are performed unless otherwise agreed in the Purchase Order. The terms of delivery shall be: DDP [The place mentioned in the Purchase order, or if no such place is mentioned, the place where the Services shall be performed] Incoterms© 2010, and the Seller shall obtain any export licenses, approvals or end-user certificates for Delivery of the Spare Parts.

## Time of performance

The Seller shall perform the Services, and deliver any Spare Parts,

1) at the time or,

2) within the timeframe or,

3) in accordance with the interval(s)/time schedule

as specified in the Purchase Order.

If no specific time or timeframe is specified in the Purchase Order, the Services shall be performed on the date(s) instructed by the Buyer following the commencement of the Agreement, provided that the Buyer allows the Seller a reasonable notice.

If the Services are to be repeated, they shall be performed at the interval(s) or time schedule specified in the Purchase Order. If no interval(s) or time schedule is specified, the Services shall be performed in accordance with a time schedule submitted by the Seller and accepted by the Buyer.

## Duty to Notify the Buyer

If Services are to be performed on one or more items provided by the Buyer (e.g. maintenance, repair etc.) and it during the performance of the Services becomes ascertainable that these no longer serve the intended purpose, the Seller shall ask the Buyer for instructions on how to proceed.

No items provided by the Buyer can be discarded without the Buyers' prior written approval. If the Buyer chooses to discard an item, the Seller shall on request fill in a scrap certificate.

## CoC and Documentation

If requested by the Buyer, the Seller shall document that all Services performed comply in full with all requirements in applicable law and regulations.

If requested by the Buyer, the Seller shall issue a Certificate of Conformity (CoC) for one or more of the Spare Parts. The CoC shall include - but is not limited to - tests performed, including test results and applicable tolerances, inspections performed by the Seller during production, drawings, specifications, standards, etc. that proves the quality of the Spare Parts.

If requested by the Buyer, the Spare Parts shall also be accompanied by the requisite product certificates, documentation, instructions for assembly, operating, safety and maintenance and any other information ensuring that the Buyer will be able to import, export, and use and repair all parts of the Spare Parts while complying with applicable law, including EU law applicable in Denmark.

All such documentation shall be submitted to DALO in accordance with the International Specification for Technical Publications (SPEC1000D, version 2.2 or later) or in another electronic version, for instance PDF format.

Format of drawings shall be in AutoCAD (.dwg), pictures in JPEG, videos in MPEG and documents in Word-format or PDF format. AutoCAD files shall include information about pen setup (colour and line width) and only standard AutoCAD and Windows True Type fonts must be used.

The language of the documentation shall be in Danish or English (Simplified Technical English is preferred) unless otherwise agreed upon by the parties.

## Warranty. Defects Liability Period.

The Warranty shall be valid in the Defects Liability Period.

If the Services and/or Spare Parts are performed/delivered in successive installments in accordance with the Agreement, a Defects Liability Period pertaining to the Services/Spare Parts in question commences separately for each installment.

If the Seller's standard Warranty period exceeds the Defects Liability Period (12 months) or the Seller has offered a longer Warranty period, this longer Warranty period applies. However for the first 12 months the Seller's Warranty must as a minimum comply with the Agreement.

In case of any remedial action, including repetition of the Services or re-delivery of Spare Parts, cf. clause 7, a new Defects Liability Period begins when the Services and/or Spare Parts have been performed/delivered in a state fully compliant with the Agreement.

In the Warranty period the Seller must remedy all Defects without cost to the Buyer.

## Work and Services Report. Inspection.

Following the performance of the Services and the delivery of any Spare Parts, the Seller shall submit a Work and Services report to the Buyer, unless the Buyer has waived this right in the Purchase Order. The report shall be submitted by e-mail to the issuer of the Purchase Order unless agreed otherwise with the Buyer.

The Buyer is entitled, but not required, to inspect the work performed by the Seller at any time.

The receipt of the Work and Services Report by the Buyer, and any signing of the report, does not constitute approval of the Services performed or Spare Parts delivered and does not in any way bar the Buyer from exercising its rights and remedies according to the Agreement.

## Compliance with applicable law

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

The Seller and any subcontractors shall observe the provisions of ILO conventions nos. 29, 105, 138 and 182. They may i.a. not make use of forced and child labor in contravention of these conventions.

In case of suspicion regarding non-compliance with human rights, anti-corruption, environment and/or the provisions of ILO conventions nos. 29, 105, 138 and/or 182 the Seller shall promptly, at the Buyer’s request, submit a written statement with relevant documentation.

If the Seller becomes aware of having violated the aforementioned requirements during the performance of the Agreement, or if proceedings are brought against the Seller for such violations (no matter in which country), the Seller must immediately inform the Buyer.

The Seller shall ensure that workers employed by the Seller and any subcontractors who contribute to the performance of the Contract are secured pay, including special allowances, hours of work and other working conditions which are not 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.

“Contribute to the performance of the Contract” shall mean work performed in Denmark for the performance of the Contract.

The Buyer is entitled to require that the Seller, after written notice to that effect, within 10 Working Days provides relevant documentation, such as pay-slips, time sheets, payroll accounts and employment contracts in respect of both its own workers and any workers that are employed by a subcontractor. If the Seller does not provide the requested documentation within the time limit set above, the Buyer is entitled to receive a daily penalty of DKK 1.000 until the Seller has provided the required documentation.

The Seller shall in all cases redact any strictly personal information such as information concerning racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, or data concerning health or sex life from the supplied information in order to comply with the Act on Processing of Personal Data (“Persondataloven”).

If the Seller fails to comply with its obligations pursuant to the labour clause, and if such non-compliance results in a justified claim for further pay from the workers, DALO is entitled to withhold amounts covering such additional payments from its payments to the Seller in order to ensure that the mentioned labour conditions are met.

## Services Performed at the Buyer's Facilities

When Services are performed at properties or facilities that belong to the Danish Armed Forces or other locations as the case may be, the Seller shall observe any instructions issued by the person in charge at the facility.

It is the responsibility of the Seller to obtain any permissions or security clearances that may be needed in order to access facilities.

## Secrecy and security classification

The Seller 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 sub-contractors for the sole purpose of carrying out this Agreement.

Furthermore, access to and treatment of classified matters and documents, if applicable to this Agreement or its performance, shall be governed by the NATO security regulations laid down in NATO document C-M (2002) 49 (or any later revisions which have replaced said document). The Seller and any subcontractor are required to comply with NATO Security Regulations as implemented by the National Security Authority of the country in which the work is performed.

If it is necessary for the Seller to disclose classified matters or documents to any of its subcontractors, the Seller shall require the subcontractor to comply with the conditions in this clause. The Seller shall comply with all instructions relating to security obligations, in particular those relating to supervision of personnel, security procedures, safety of material and actual or presumed sabotage.

Failure by the Seller or any subcontractor to comply with the security regulations referred to in this clause shall be deemed to be a material breach of the Agreement, cf. clause 9.1. In addition, the Seller may be liable to criminal proceedings.

## Insurance

The Seller shall maintain customary insurances, including professional liability insurance, and product liability insurance covering the Seller to an extent corresponds to the Agreement.

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

# Right to demand changes

The Buyer can demand that changes be made in the nature, extent or time of performance/delivery of the Services and/or the Spare Parts covered by the Agreement when such changes are naturally linked to the Services and/or Spare Parts described in the Purchase Order.

Both the Buyer and the Seller can demand that changes are made to the Services and/or Spare Parts necessitated by requirements in law or public regulation that was unforeseeable at the time of the Seller's acceptance of the Purchase Order.

Demand for changes shall be forwarded in writing in reasonable time before the changes are to take effect. Changes can only be made to the extent permitted by the rules on public tenders and procurement in force at the time of the change.

If the changes lead to an increase or a decrease in the Seller's cost, the payment to the Seller, cf. clause 6.1, is adjusted accordingly.

# Prices and Payment

## Prices

### Generally

All Prices are quoted exclusive of VAT, but inclusive of all other taxes, duties and government charges that the Seller is obligated to pay in accordance with clause cf. 4.2.

Any discounts shall be specified in the Purchase Order.

In case the Seller reduces its published list-prices prior to Delivery, the Price shall be reduced accordingly, and the Seller shall only invoice the Buyer the reduced Price.

## Payment

### Generally

The Seller is entitled to payment for Services performed and Spare Parts used or delivered in connection with the performance of the Services by the Seller as stated below, unless it follows from the Purchase Order that Spare Parts are included in the fixed price.

If Spare Parts are not included in a fixed price, the price for these cannot exceed the prices stated in the Purchase Order, or if no price is stated in the Purchase Order because the use or delivery of the Spare Parts in question was unforeseeable at the time of issuing the Purchase Order, the prices charged by the Seller to other customers in comparable situations.

### Price Quoted as Fixed Price

If the Price is quoted in the Purchase Order as a fixed Price, this Price shall cover all Services to be performed and all Spare Parts to be delivered by the Seller unless it is specifically stated in the Purchase Order that Spare Parts are not included in the fixed Price.

### Price(s) Quoted as Unit Prices

If the Price is quoted in the Purchase Order as one or more unit Prices, the Seller can claim payment for the Services performed and the Spare Parts delivered in accordance with the usage described in the Work and Services Report, cf. clause 4.7.

If the Purchase Order includes a price cap, the payment claimed by the Seller for the Services and the Spare Parts cannot exceed this cap.

## Payment conditions

The Buyer shall pay all invoices no later than 30 (thirty) Days after the Seller has electronically forwarded the invoice, provided that is 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 Services and/or Spare Parts or in any other way prevent the Buyer from using the provisions under the Agreement.

## Invoices

Domestic Suppliers shall submit electronic invoice in OIOUBL format immediately after Delivery of all Services and/or Spare Parts.

The Danish Defence Accounting Agency will not accept invoices submitted from a Scanning Bureau.

Invoices shall be submitted to

EAN nr. 5798000201767

Forsvarsministeriets Regnskabsstyrelse

(Danish Defence Accounting Agency)

Arsenalvej 55 C

9800 Hjørring

Denmark

Foreign Suppliers shall submit invoices in PDF format immediately after Delivery of all Services and/or Spare Parts to:

EAN nr. 5798000201767

Forsvarsministeriets Regnskabsstyrelse

(Danish Defence Accounting Agency)

Arsenalvej 55 C

9800 Hjørring

Denmark

Foreign Suppliers shall use the following e-mail: [FRS-KTP-KRE-INVOICE@MIL.DK](mailto:FRS-KTP-KRE-INVOICE@MIL.DK) and [FMT-KTP-FDD-IMPORT@MIL.DK](mailto:FMT-KTP-FDD-IMPORT@MIL.DK).

If possible, foreign Suppliers can submit electronic invoice in OIOUBL format. Further information is available at <http://oioubl.info/classes/da/index.html>

Invoices shall as a minimum contain:

1. Reference to the Purchase Order Number and the Purchase Order date (if the Purchase Order is assigned to a contract number (46x), such contract number shall also be referred on the electronic invoice),
2. Work and Services Report
3. Position number for each delivered product, including amount, price and serial number (if any)
4. The Sellers bank address, SWIFT code and account number or IBAN number
5. Reference to the Buyers contact person (name and staff number)

# Defects

## Generally

The Seller is liable for Defects in the Defects Liability Period.

The Seller shall be notified within reasonable time of any Defect which appears in the Services performed or Spare Parts delivered.

If the Buyer fails to give notice within the timeframe stipulated, he loses his rights in respect of the Defect in question.

Immediately afterwards the notification, the Seller shall confirm receipt of such notice and take necessary action to mitigate the Buyer's loss or disruption caused by the Defect.

The Seller shall immediately after receipt of the notice above, or after he himself has discovered the Defect, remedy the Defect, repeat the Services or re-deliver the Spare Parts without undue delay and at his own cost and risk, provided that this can be carried out without disproportionate expenses.

If remedial action, repetition of the Services, or redelivery of Spare Parts is:

1. not performed, or
2. is performed, but does not lead to the Services and/or Spare Parts being free of Defects,

the Buyer shall be entitled to a price reduction whereby the Buyer shall only pay such price for the Services and/or Spare Parts as is deemed fair and reasonable taking into account the nature of the Defect(s).

## Failure of the Seller to Remedy Defects

If the Seller fails to remedy the Defect, repeat the Services, or redeliver Spare Parts within the timeframe stipulated in accordance with clause 7.1, the Buyer can terminate the Agreement in accordance with clause 9.1 if the nature of the Defect(s) deprives the Buyer of the intended purpose or the Defects are substantial in number.

# Delay

## The Seller's Delay and penalty

The Seller shall immediately notify the Buyer of any Delay or expected Delay, as well as take any measures available to reduce the Delay.

If the Seller is in Delay, the Seller shall pay a penalty to the Buyer calculated as 1 % (one per cent) of the Price of the delayed Services and/or Spare Parts in question per Day, however not less than DKK 500.

If the Delay results in the inapplicability of already performed Services and/or delivered Spare Parts, penalty shall be calculated on the basis of the value of all affected Services performed and/or Spare Parts delivered.

The total penalty cannot exceed 8 % (eight per cent) of the total payment that the Seller have received or would have received from the Buyer if the Agreement was carried out as planned. Whether or not this maximum has been reached, the Buyer can terminate the Agreement if the Delay is material, cf. clause 9.1, and - if the conditions are fulfilled - claim damages, cf. clause 10.1. However, if the maximum penalty has been reached, this shall in all cases constitute a material breach.

If only part of the Agreement has been carried out, the Buyer may choose to terminate the Agreement only with regard to the Services and/or Spare Parts which are delayed.

The penalty shall be paid upon request from the Buyer. The Buyer is entitled to set off any penalties against any of the Seller's claim(s) for payment.

## The Buyer's Delay

In the event of delayed payment from the Buyer to the Seller, the Seller shall be entitled to claim interest at the default interest rate applicable to delayed payments (in Danish: "Morarente") fixed in clause 5 (1) in the Danish Interest Act (in Danish "Renteloven").

# Termination

## The Seller's non-performance

The Buyer may terminate the Agreement in full or partly on the conditions stipulated in this clause if the Seller is in material breach of the Agreement. This shall apply regardless of any other provision of the Agreement.

Material breach includes, but is not limited to, the following situations:

1. The Seller's anticipated non-performance of its obligations, including but not limited to bankruptcy, commencement of restructuring proceedings etc.,
2. The Seller's non-material breach of the Agreement that in combination with one or more other non-material breaches constitutes a material breach of the Agreement,
3. Non-compliance with applicable law, cf. clause 4.8, including serious and/or repeated violation of the labour clause.
4. Failure to deliver a required written statement with relevant documentation in case of suspicion of violation of applicable law, cf. clause 4.8 and/or failure to inform the Buyer in case of proceedings brought against the Seller.
5. Failure to obey instructions regarding access to or conduct at facilities of the Danish Armed Forces or any other nation, cf. clause 4.9,
6. Violation of any secrecy and security classification obligations, cf. clause 4.10.
7. In the situation described in clause 7.2,
8. Material Delay, including the Seller's notification of an anticipated material Delay, cf. clause 8.1.

If the Buyer deems that a material breach has occurred, the Buyer shall notify the Seller in writing. If the Seller has not remedied the breach within 14 (fourteen) Days, the Buyer can choose to terminate the Agreement and make claims for any loss or damages, cf. clause .

In case of termination, including termination of only a part of the Agreement, the Buyer shall be entitled to purchase Services and/or Spare Parts similar to those of the Agreement both with regard to quality and quantity from a third party for the Seller's account.

In case of termination, the Seller shall refund all payments made by the Buyer without deduction for Services that as a consequence of the termination becomes unusable to the Buyer, irrespective of whether the Services are in accordance with the Agreement or not. The Buyer shall put any unused Spare Parts at the Seller's disposal and the Seller shall refund all payments made to the Buyer. Any transportation costs in order to transport the Spare Parts back to the Seller are irrelevant to the Buyer. Spare Parts which have been used by the Buyer and which are free of Defect(s) are not encompassed by the termination and the Buyer is obliged to pay for these.

## The Buyer's non-performance

If payment from the Buyer is delayed, and a period of 3 (three) months have lapsed after the Seller's written notice of the Delay, the Seller may terminate the Agreement and claim interest in accordance with clause . The Seller shall forthwith give the Buyer a written notice, if the Seller decides to terminate the Agreement.

## Termination for Convenience by the Buyer

The Buyer shall be entitled to terminate the Agreement for convenience with a written notice of 1 (one) month, if the Buyer's decision to enter into the Agreement is annulled (in Danish: "annulleret") by the Danish Complaints Board for Public Procurement or the courts.

Furthermore the Buyer shall be entitled to terminate the Agreement for convenience, if the Danish Complaints Board for Public Procurement or the courts declare the Agreement ineffective (in Danish: "uden virkning"). The Buyer shall then be entitled to terminate the Agreement in whole or in part in accordance with the notice given in the decision. In this instance, the Agreement shall cease to have effect from the time stipulated in the decision.

The Seller's claim for damages in these situations shall be settled in accordance with the principles of tort in Danish law, cf., however, clause 10.2. Furthermore, the reservation for termination for convenience with a notice as stipulated above shall be taken into account when calculating the Seller's loss.

If the Seller knew - or ought to have known - the factual or legal grounds leading to the Danish Complaints Board for Public Procurement or the court's decision declaring the Agreement ineffective, the Seller shall not be entitled to raise any claim for damages against the Buyer.

# Damages and Liability Cap

## Damages

Without prejudice to any other remedy stated in the Agreement, the Buyer shall be entitled to claim damages for any loss or damage suffered due to the Seller's non-performance of its obligations under the Agreement to the extent said loss or damage is not covered by a penalty paid in accordance with clause 8.1.

Damages will be claimed in accordance with the general rules of Danish law.

## Liability Cap

Neither the Seller nor the Buyer shall be liable for operating losses, consequential losses or other indirect losses.

The liability shall be limited to the Price. This liability cap shall not include penalties paid in accordance with clause 8.1 and shall not apply in case of willful misconduct or gross negligence.

# Miscellaneous

## The Buyer's rights of proprietary

All items delivered to the Seller by the Buyer in relation to the Services provided under this Agreement as well as all objects, items, intellectual property rights, and other intangible assets produced for the Buyer by the Seller in connection with the performance of this Agreement, shall be and remain the Buyer's property and shall at all times be marked as such.

The Seller shall insure such objects and assets without any expense for the Buyer, and the objects and assets shall not be lent, sold, pledged, copied or in any other way imitated or assigned to a third party without the Buyer's prior written consent.

The Buyer can at any time request that the Seller without undue delay and at the expense of the Seller returns any such objects and assets, and deletes any copies the Seller and its subcontractor(s) might have.

## Intellectual Property Rights

The Seller shall deliver all rights of use (but not necessarily of title) of whatever nature, whether being based in patent law, design law, copyright law, trademark law, marketing law etc. concerning Spare Parts so as to allow the Buyer the full use of the items without any restrictions.

The Seller represents and warrants that the Spare Parts and the Buyer's import, use and possible subsequent export do not infringe any third party rights of whatever nature, whether being based on patent law, design law, copyright law, trademark law or marketing law, etc., and that no third party has the right to claim license fees, royalties or other payments from the Buyer for the ownership, possession or use of the Spare Parts.

If a third party should bring an action or submit a claim against the Buyer as a result of the Buyer's use or ownership of any Spare Parts, or because of Services performed in accordance with the Agreement, the Buyer shall notify the Seller accordingly, and the Seller shall hold the Buyer harmless for any such action or claim recognised by the relevant courts, including but not limited to damages, legal fees, court fees and fees of independent experts, etc..

## Assignment and sub-Contractors

The Seller shall not be entitled to assign its rights and/or obligations under the Agreement to any third party, including but not limited to other companies within the same company group, without prior written approval from the Buyer. Such approval shall not be unreasonably withheld.

Unless stated otherwise in the Purchase Order, the Seller is allowed to use sub-contractors to carry out the agreement. However, the Buyer's written approval is needed if the performance of the Agreement requires particular expertise with regard to the Services to be performed or it entails sub-contractors receiving access to classified information. The Buyer will not withhold such an approval unreasonably.

The Seller remains responsible for the performance of the Agreement, notwithstanding the use of any sub-contractors. The Seller must ensure that sub-contractors shall adhere to the terms of these Conditions, including, but not limited to, clause 4.9 regarding Services performed at the Buyer's facilities and clause 4.10 regarding secrecy, and shall be covered by insurance in accordance with clause 4.11.

## Force Majeure

If a force majeure event occurs, the Seller's and the Buyer's obligations towards each other shall be suspended for the time being, provided that the force majeure event is notified to the other party with supporting arguments and particulars describing the nature and extent of the force majeure event as soon as the party in question has become aware of a force majeure event.

To this effect, force majeure shall be defined as an event

(1) outside the control of the parties, and of a certain qualified nature (war, hostilities, riots, nuclear or natural disasters, etc.),

(2) unforeseeable or not reasonably foreseeable at the time of signing the Agreement, and furthermore,

(3) not easy to overcome, neither by reasonable investments of work nor money, etc.

If the force majeure event continues beyond 60 Days – not necessarily consecutive, but within the same 120 Days – each party shall be entitled to terminate the Agreement. In such instance, the Seller shall be entitled to receive payment for Services performed and/or Spare Parts delivered until the force majeure event occurred, and Buyer shall only be liable to pay an amount equivalent to the Services and/or Spare Parts performed or delivered and approved.

Neither party shall make any claim against the other party based on a force majeure event.

## Non-waiver and amendments

Any consent to or waiver of any provision or breach shall not constitute consent to or a waiver of such provision or breach in the future. Any specific consent or waiver shall be in writing and shall only affect the relevant breach.

No delay or failure by the Buyer in exercising any of its rights under the Agreement shall operate as a waiver of that right.

Additions or amendments to the Agreement shall only be valid if agreed upon in writing by both parties.

## 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 hereof, shall be settled by the Danish ordinary courts of justice.