

## Terms and Conditions of Sale

### 1. Entire Agreement/Orders.

This agreement (the "Agreement") is between Mandals AS ("Mandals") and Purchaser. No order for Mandals goods or services shall be binding upon MANDALS until acknowledged in writing by MANDALS. Such written acknowledgement and these Standard Terms and Conditions of Sale (the "Terms and Conditions") constitute the entire agreement between MANDALS and Purchaser. Any purchase order, offer or counter-offer made by Purchaser before or after Mandals written acknowledgement is rejected and all documents exchanged prior to Mandals written acknowledgement are merely preliminary negotiations and not part of any agreement between the parties. For example, orders submitted on Purchaser's own purchase order forms modifying, adding to, contrary to, or inconsistent with these Terms and Conditions are expressly rejected and of no force or effect and acceptance is expressly made conditional upon assent to these terms. In no event will MANDALS be deemed to have in any way changed, enlarged or modified its liabilities or obligations as fixed by these Terms and Conditions including, without limitation, situations in which MANDALS satisfies an order submitted on Purchaser's own purchase order form.

Purchaser shall have been deemed to agree to these Terms and Conditions upon the earlier of acceptance of Mandals quotation, acceptance of delivery of the goods or services or the issuance of a purchase order to MANDALS.

No acknowledgement by MANDALS and no provision of Mandals Terms and Conditions shall be subject to change in any manner except as agreed to in writing by an officer of MANDALS.

### 2. Prices.

Until acceptance of a purchase order is acknowledged in writing by MANDALS, all prices are subject to change. Written quotations expire thirty (30) calendar days from the date of quotation unless specified otherwise. Verbal quotations are non-binding on MANDALS. Quoted prices do not include sales, value added (VAT, "moms"), excise, local city, state or any other government taxes. All taxes and other governmental charges upon the production, manufacture, distribution, sale or use of goods or services to the extent required or not forbidden by law to be collected by MANDALS from Purchaser, shall be paid by Purchaser to MANDALS unless Purchaser furnishes MANDALS with exemption certificates acceptable to the relevant taxing authorities. MANDALS reserves the right to revise final quoted prices of work in process due to any change in the order on the part of the Purchaser.

### 3. Terms Of Payment.

Invoices are due net thirty (30) days from the date of invoice unless specified otherwise and approved in writing by MANDALS. Past due accounts will bear interest at a rate based upon the interest rate set by ECB per month of the invoiced amount. All invoices are payable in Norwegian

Kroner (NOK), unless specified otherwise and approved by MANDALS in writing. Acceptance of bank drafts, checks or other form of payment shall be subject to immediate collection of the full-face amount thereof. MANDALS may, at its discretion, impose a transaction fee on payments processed via wire transfer or by Letter of Credit.

MANDALS reserves the right at any time to suspend credit or to change credit terms provided herein when in its sole opinion the financial condition of Purchaser so warrants. In such case, in addition to any other remedies provided herein or by law, MANDALS may request cash payment or satisfactory security from Purchaser prior to shipment of goods. If delivery is delayed or deferred by Purchaser beyond the scheduled date, payment shall, irrespective of the delay by Purchaser, be due in full when MANDALS is prepared to ship the goods or perform the services. The goods may thereafter, at Mandals option, be stored at the risk and expense of Purchaser.

In the event of non-payment of an invoice when due, and without prejudice to other lawful remedies, MANDALS shall have the right to suspend further work or the delivery of future goods under this Agreement or any other agreement with Purchaser until such invoice is paid in full; provided, however, that if such invoice remains unpaid for more than five (5) days after written demand by MANDALS, MANDALS may terminate this Agreement without penalty.

Invoices due for payment will be subject to "morarenter" (12%) p.a. in the event of non-payment by Purchaser on the agreed due date as per MANDALS Terms of Payment herein.

#### **4. Delivery.**

MANDALS shall not be liable for any damage as a result of any non-delivery or delay due to any cause beyond Mandals reasonable control, including, without limitation, act of Purchaser; embargo; other government act, regulation or request; fire; accident; strike; war; boycott; slowdown; riot; or delay in transportation or inability to obtain necessary labor, materials, or manufacturing facilities.

#### **5. Shipment/Risk Of Loss.**

Unless otherwise noted, all sales of goods are made Ex Works Warehouse, Mandal in Norway. MANDALS will use commercially reasonable efforts to meet delivery dates stated in advance of actual shipment of goods or performance of services, but in no event shall such quoted delivery dates be deemed to represent fixed or guaranteed delivery dates. Claims for shortage or other quantity errors must be made in writing to MANDALS within five (5) days after receipt of shipment. Failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Purchaser.

MANDALS, in its sole discretion, may accommodate Purchaser requests for delivery of goods in installments if such requests are confirmed in writing by MANDALS. Such installment deliveries, when separately invoiced, shall be paid for when due per invoice without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Purchaser of its obligations to accept remaining deliveries.

## 6. Warranty/Claims.

Purchaser acknowledges that it has selected and ordered goods based on its own skill and judgment and agrees that it is responsible for ensuring that the goods selected are fit for Purchaser's purpose. MANDALS warrants only that such goods have been produced in accord with Mandals standard practices with regard to materials and workmanship and no samples or prior description of goods shall constitute an express warranty. If goods are non-conforming, MANDALS, at its option and subject to the terms of this paragraph 6 and paragraph 8, will either (i) allow Purchaser to return the goods and receive repayment of the price or (ii) repair or replace the goods. No goods are to be returned to MANDALS without prior written consent of MANDALS and the assignment of a return goods authorization number by MANDALS.

Purchaser is liable to pay for all associated costs incurred by MANDALS due to Purchaser's selection of non-compliant or defective designs and materials. These associated costs are calculated based on any additional costs incurred by MANDALS in managing the noncompliant or defective products, including, but not limited to, all reworks, investigations and other consequential costs.

MANDALS shall not be responsible for any selection made by Purchaser and will not have any liability to Purchaser for any loss, damages, costs or expenses suffered by Purchaser as a result thereof.

(a) THIS WARRANTY IS IN LIEU OF ANY EXPRESSED OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER OBLIGATION ON THE PART OF THE SELLER.

(b) MANDALS shall have no obligation under this warranty if damage to the goods occurs because of Purchaser's failure to comply with Mandals written storage procedures for the goods or improper handling or operation, modification of the goods, abuse, misuse, unauthorized repairs made or attempted and/or where equipment is operated above rated capacity.

(c) No employee or representative of MANDALS has authority to bind MANDALS to any affirmation, representation or warranty concerning the goods sold.

(d) Upon receipt, Purchaser shall inspect the goods. All notice of claims, including claims for alleged defective goods, must be made within (i) thirty (30) days of receipt of such goods; or (ii) prior to the installation of such goods into any other products, whichever period is shorter. If no notice of claim is made within such inspection period, the goods are irrevocably accepted by Purchaser and all claims against MANDALS are waived and forever barred. Purchaser agrees that any litigation or arbitration relating to any claim must be commenced within one (1) year after date of shipment by MANDALS. Purchaser hereby expressly assumes all liability for all damage and injury occurring before and after said time periods if notice is not made pursuant to this Agreement.

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## 7. Purchaser Supplied Materials.

Purchaser warrants that any materials, inserts, or parts supplied to MANDALS will conform to all indicated specifications and will be timely delivered. MANDALS shall not be liable for any damages related to parts or materials supplied by Purchaser, including damage to the part or material itself, or damage caused by defective materials, inserts, or parts. MANDALS extends no warranty and shall not be liable for any MANDALS goods that are defective as a result of Purchaser supplied materials, inserts, or parts and Purchaser shall be required to purchase any goods into which MANDALS incorporates any Purchaser supplied materials, inserts, or parts at the then applicable price for such goods.

## 8. Limitation Of Liability/ Indemnity.

Mandals liability on any claim for loss or damage arising out of any transactions under this Agreement or from the performance or breach thereof or connected with any goods or services supplied hereunder, or the sale, resale, operation or use of goods, whether based on agreement, warranty, tort (including negligence) or other grounds, shall not exceed the price allocable to such goods or services or part thereof involved in the claim, regardless of cause or fault. Purchaser's remedies are limited to the return of non-conforming goods and repayment of the price or to the repair and replacement of non-conforming goods, subject to the provisions of paragraph 6. This limitation of liability and remedies reflects a deliberate and bargained-for allocation of risks between MANDALS and Purchaser and constitutes the basis of the parties' bargain, without which MANDALS would not have agreed to the price or terms of this transaction.

MANDALS SHALL NOT IN ANY EVENT BE LIABLE WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHER GROUNDS FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF GOODS OR ASSOCIATED PRODUCTS, BUSINESS INTERRUPTION, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES OR SERVICES, DOWNTIME COSTS, OR CLAIMS OF CUSTOMERS OF PURCHASER FOR SUCH DAMAGE. In addition, if MANDALS furnishes Purchaser with advice or other assistance regarding any goods or services supplied hereunder, or any system or equipment in which any such goods may be installed, and which is not required pursuant to this transaction, the furnishing of the advice or assistance will not subject MANDALS to any liability, whether based on agreement, warranty, tort (including negligence) or other grounds.

In the event Purchaser modifies MANDALS goods or incorporates MANDALS goods into another product or component part, Purchaser agrees to hold harmless and indemnify MANDALS from any and all claims, liabilities, losses, costs and expenses (including reasonable attorneys' fees) involving personal injury or property damage. Purchaser also agrees to hold harmless and indemnify MANDALS from any patent or other intellectual property claims related to (i) any MANDALS goods made in accordance with Purchaser's designs or specifications; or (ii) the use of any drawings provided to MANDALS by Purchaser for use in the manufacture, production or assembly of such goods.

**9. Waiver And Choice Of Law.**

The failure of MANDALS to insist in any one or more instances, upon the performance of any of the Terms and Conditions as set forth herein, or the failure of MANDALS to exercise any of its rights hereunder, shall not be construed as a waiver or relinquishment of any such terms, conditions or rights and shall not effect Mandals right to insist on strict performance and compliance with regard to any future performance of these Terms and Conditions. All transactions shall be governed by the common laws of Norway, excluding any conflict law rules.

**10. Dispute Resolution/Attorneys' Fees.**

Disputes arising in connection with or as a result of the Agreement, and which are not resolved by mutual agreement, shall be referred to arbitration and final decision in accordance with the provisions of the Norwegian Arbitration Act (Act no. 25/2004), or if applicable newer corresponding regulations replacing these. Arbitration proceedings shall take place in Stavanger City Court, Norway, unless otherwise agreed by the parties. The language of arbitration shall be in English, unless otherwise agreed by the parties.

The parties agree that any arbitration proceedings and awards in disputes under the Agreement shall not be available to the public. The parties furthermore agree that they shall keep all arbitration proceedings and awards under the Agreement confidential and that they for any such arbitration proceeding(s) shall enter into agreement to this effect.

The power of appointment referred to in Section 13 of Act no. 25/2004 shall be exercised by the District Court of Stavanger city.

The award by the arbitration panel (including any awards as to costs) shall be final and binding upon the parties.

**11. Assignment, Waiver, Entire Agreement, Severability.**

Neither party shall assign or delegate any of its rights or obligations under this Agreement without the prior written consent of the other party, which such consent shall not be unreasonably withheld, except that either party may assign or delegate its rights or obligations hereunder to an Affiliate without the other party's consent. As used herein, the term "Affiliate" shall mean any entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the entity specified. MANDALS may terminate this Agreement upon written notice to Purchaser without any further liability to Purchaser if there is a change of control of Purchaser. The Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of this Agreement. Neither the Agreement nor any of its provisions may be modified, amended or waived, whether orally, through the parties' course of performance, course of dealing or course of conduct, or manifested in any other way, unless in writing and signed by an authorized officer of MANDALS. It is the express intention of the parties that such requirement for written modifications, amendments or waivers be strictly enforced notwithstanding judicial precedent or statutory provisions to the contrary. Any provision found invalid or unenforceable will not affect the validity or enforceability

of any other provision and the invalid provision may be judicially modified to the extent enforceable.

## **12. Export Control**

### **Michelin Group Positions**

1. Client shall respect the Michelin Group Positions, which may contain more restrictive provisions than the Trade Restrictions as defined below. These Group Positions are based on commercial considerations and other compliance concerns, including but not limited to: money laundering and corruption concerns and concerns related to the financing of terrorism. These Group Positions apply to the Products sold as spare parts or incorporated in a higher-level assembly (such as fitted unit, a ground vehicle, a plane, etc...). As of signature date of the Agreement, the list of countries to which Michelin refuses and prohibits any direct or indirect sales (including transit across these countries) is as follows: Cuba, Iran, North Korea, Syria. This list is subject to changes during the term of the agreement and Michelin reserves the right to regularly notify such changes to the Client.

### **Trade Restrictions**

2. Client shall comply with all applicable laws and regulations with regard to the supply, sale, transfer, export, re-transfer, or re-export of the Products, including but not limited to those relating to: trade sanctions (including but not limited to comprehensive or sectoral embargoes and restricted parties) and export controls (including but not limited to military or dual usage products), altogether defined hereafter as "Trade Restrictions". For the avoidance of doubt, all applicable laws and regulations could include those originating out of the United Nations, the European Union, the OSCE, or the United States of America.
3. Client shall not cause Michelin to, either directly or indirectly, risk any potential violation of any applicable Trade Restrictions. Furthermore, Client will not supply, sell, transfer, export, re-transfer, re-export, or otherwise make available or use any Product supplied by Michelin in order to circumvent, evade or avoid any applicable Trade Restrictions.
4. Client shall only supply, sell, transfer, export, re-transfer, re-export, otherwise make available or use Products as permitted by applicable law and shall not supply, sell, transfer, export, re-transfer, re-export, or otherwise make available, either directly or indirectly, any Products:
  - a. To any individual, entity or body resident, located, registered, incorporated, domiciled or head-quartered in any jurisdiction targeted by applicable Trade Restrictions;
  - b. To any "Restricted Person": Restricted Person shall mean any individual, entity or body either: (i) specifically designated or listed under Trade Restrictions; (ii) owned or controlled by any person specifically designated or listed under Trade Restrictions; or, (iii) acting for or on behalf of any person specifically designated or listed under Trade Restrictions and
  - c. For any use, purpose or activity which is prohibited or otherwise restricted under Trade Restrictions,
5. Where Michelin has reasonable cause to suspect that any Product may be or has been supplied, sold, transferred, exported, re-transferred, re-exported, otherwise made available to any jurisdiction targeted by applicable Trade Restrictions, or to a Restricted Person, or for any

use, purpose or activity which is prohibited or otherwise restricted under Trade Restrictions, Michelin reserves the right to:

- a. Immediately suspend its performance under the Agreement;
  - b. Request further information or documentary evidence from the Client, including but not limited to:
    - i. Any licences, authorisations, permits, or approvals obtained by the Client with respect to the supply, sale, transfer or export of the Products;
    - ii. Any End User Certificates or Undertakings supplied to the Client;
    - iii. Any shipping or commercial documentation, including: invoices; or, bills of lading, in order to verify the end use(s) or end user(s) of the Products.
  - c. Take any other appropriate measure regarding its commercial relationship with the Client.
6. Client certifies that, as of the date hereof, neither Client, nor any of the Client's Group Companies, nor any of their respective directors or officers is a Restricted Person. Client shall immediately notify Michelin if Client, or any of the Client's Group Companies, or any of their respective directors or officers becomes a Restricted Person. Furthermore, Client shall immediately inform Michelin if Client is or become aware or has reasonable cause to suspect that either the Client, or any of the Client's Group Companies, or any of their respective directors or officers may become a Restricted Person.
7. In the event that any Product supplied by Michelin is re-supplied, re-sold, re-transferred, re-exported, re-distributed or otherwise made available to any third party, Client shall take all actions reasonably necessary to ensure that such third parties: (a) Comply with any applicable Trade Restrictions and Michelin Group Positions; and, (b) Do not cause Michelin to directly or indirectly violate any applicable Trade Restrictions or Michelin Group Positions (as defined in last paragraph of this clause).
8. Client shall indemnify and hold harmless Michelin from and against any losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, any expense of litigation or settlement, and court costs, arising from any noncompliance with Trade Restrictions or Michelin Group Positions by Client. Client shall be responsible for any act or omission of Client, its officers, employees, affiliates, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.