

NIKKELVERK
A GLENORE COMPANY

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General Terms of Purchasing

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Remarks: This is a simplified version of our Conditions Of Contract. To keep the same contract clause numbers that are common in both versions, their numbering in this version is not always sequential.
The following contract clauses are not included in this version:
1.1, 1.2, 1.6, 1.7, 1.8, 1.11, 1.12, 1.18, 1.20, 1.28, 3.2, 3.3, 4.2, 4.5, 5.2, 8.2, 8.4, 8.5, 9.2, 9.4, 10.2, 11.2, 11.3, 12, 13.2, 13.5, 13.6, 14, 15.3, 16.1, 17, 18, 26.2, 26.3, 26.4, 28.1, 28.2, 30

34 DEFINITIONS

- 34.3 Contract means the Form of Agreement, including any exhibits and appendices, and these conditions of contract.
- 34.4 Contract Object means the object which Supplier shall deliver or cause to be delivered under the Contract, together with all parts and any spare parts, documentation and software thereof
- 34.5 Contract Price means the total sum payable, excluding VAT, to Supplier in accordance with the Contract, as that sum is increased or decreased in accordance with the provisions of the Contract.
- 34.9 Delivery means the date delivery has occurred in accordance with art. 15.1.
- 34.10 Delivery Date means the date for delivery of the Contract Object agreed in the Form of Agreement, as varied in accordance with the provisions of art. 11.
- 34.13 Force Majeure means an occurrence beyond the control of the party affected, provided that such party could not reasonably have foreseen such occurrence at the time of entering into the Contract and could not reasonably have avoided or overcome it or its consequences.
- 34.14 Form of Agreement means one or all of the following documents
- a purchase order issued by GNN
 - a signed and dated document in which the parties have established their rights and obligations in connection with (1) the Contract Object in question or (2) a frame agreement.
- 34.15 GNN means Glencore Nikkelverk AS.
- 34.16 GNN's Code of Conduct means a document in which GNN's codes of conduct are outlined, and which can be found on GNN's webpage; www.nikkelverk.no.
- 34.17 Guarantee Period means such period as stated in art. 19.2.
- 34.21 Site means any place where Work is performed.
- 34.22 Sub-supplier means a Third Party who has entered into an agreement with a Supplier for the supply of goods or services in connection with the Work.
- 34.23 Sub-supply means the part of the Work to be performed by a Sub-supplier.
- 34.24 Supplier means the entity named in the Form of Agreement as contractor/supplier.
- 34.25 Supplier Group means Supplier, Sub-suppliers and their contractors and sub-contractors, participating companies in an enterprise established for the performance of the Work, and the employees of the aforementioned corporate entities.
- 34.26 Third Party means any party other than GNN and Supplier.
- 34.27 Variation Order means instruction of Variation to the Work issued in accordance with art. 11.
- 34.29 Variation to the Work means variation to the Work or any part of the Contract made in accordance with the provisions of art. 11.
- 34.30 Work means all work which Supplier shall cause to be performed under the Contract including delivery of the Contract Object.

35 CONTRACT DOCUMENTS

- 2.1 In the event of any conflict between the provisions in the Contract, or any part thereof, they shall be given priority in the following order:
- a) Form of Agreement in the order listed in art 1.14
 - b) Appendices in the order listed in the Form of Agreement
 - c) these conditions of contract

36 REPRESENTATIVES AND PERSONNEL OF THE PARTIES

- 36.1 Supplier undertakes to provide competent and suitably qualified personnel in sufficient numbers at all times to ensure performance and completion of the Work in accordance with the provisions of the Contract and the highest industry practice. Supplier shall upon GNN's request verify all relevant qualifications of such personnel.
- 36.4 Appointment, transfer or replacement of personnel defined as key personnel in the Contract, shall be approved by GNN. Approval shall not be unreasonably withheld.

37 SCOPE OF WORK AND GENERAL OBLIGATIONS OF SUPPLIER

- 37.1 Supplier shall at its own risk and expense perform the Work in a professional and diligent manner, in accordance with the requirements and standards specified of the Contract and in accordance with the relevant industry practices and standards.
- 37.3 If it is agreed that GNN shall undertake installation and commissioning of the Contract Object, Supplier shall provide GNN with necessary assistance. Such work shall be considered included in the agreed contract price, unless such costs are explicitly exempted.
- 37.4 All necessary documentation and software concerning the operation and maintenance of the Contract Object shall be supplied by Supplier.
- 4.6. Supplier shall transport and deliver the Contract Object in accordance with the agreed Incoterms. Unless otherwise agreed in the Form of Agreement, the Contract Object shall be delivered DAP (as defined in Incoterms) at GNN's location, Kristiansand, Norway.

38 REGULATORY REQUIREMENTS AND PERMITS

- 5.1 Supplier shall keep himself and Supplier Group informed of and comply with all relevant laws and regulation on any Site.

39 SOCIAL RESPONSIBILITY, ETHICS AND HSE

- 39.1 Supplier ensure that Supplier and the Supplier Group adhere to GNN's Code of Conduct.
- 39.2 Supplier ensure that Supplier and the Supplier Group shall comply with the following requirements:
- International conventions aimed at combating corruption that are ratified by the home state of the Supplier and/or by Norway; and
 - all anti-corruption statutes that may be applicable in connection with the Contract Object.
- 39.3 Supplier ensure that all manpower used in the Supplier Group shall have orderly wages and working conditions and be treated in compliance with national rules in the country where the work is carried out, as well as in compliance with internationally recognized principles and guidelines relating to human rights, labour rights, child labour, environment, etc.

Within the area covered by the Norwegian regulation relating to general application of wage agreements etc, Supplier shall ensure that the Supplier Group's employees at minimum receive the rights set out in the national collective agreement for the relevant sector.

Upon request from GNN, the Supplier shall submit documentation on the wages and working conditions made use of in connection with the Contract Object.

39.4 Supplier ensure that Supplier and the Supplier Group shall apply HSE standards (health/safety/environment) that is, at a minimum, in accordance with laws and regulations (local and national) applicable from time to time.

39.5 Any breach of the provisions in art. 6.1 to 6.4 by anyone in Supplier Group, shall be remedied by Supplier without undue delay. GNN may withhold a reasonable amount to ensure Supplier's efficient remedy of the breach in question, as well as any amount necessary as security for any loss GNN may incur due to the breach.

If a breach is repeated or in itself material, GNN may suspend all Work necessary to avoid further breach until the breach has been remedied.

40 QUALITY MANAGEMENT

40.1 Supplier shall have implemented and documented a system for quality management in accordance with the requirements of the Contract and shall comply with this under the performance of the Work. GNN's Representative and personnel authorized by him, shall have the right to undertake quality audits and verifications of Supplier's quality management procedures.

41 GNN'S INSTRUCTIONS AND DOCUMENTS

41.1 Supplier shall prudently and timely comply with all instructions given by GNN related to the performance of the Work under the Contract.

41.3 Supplier shall search for and identify any defects, discrepancies and inconsistencies in documents and instructions provided by GNN, and shall notify GNN without undue delay upon discovery.

42 INSPECTION, TESTING AND TECHNICAL AUDIT

42.1 GNN or any person authorized by him shall have the right to inspect and review the Contract Object at various stages of construction, together with all drawings, specifications and models, at any Site for the purpose of ensuring that the Contract Object is being constructed and may be delivered in accordance with the Contract.

42.3 Supplier shall perform all tests as requested by GNN for the purpose of ascertaining that the Contract Object meets the requirements as is set out in the Contract.

42.5 GNN's approvals, comments, reviews, tests, inspections etc. shall not release Supplier from any obligations under the Contract, unless otherwise clearly set out in the Contract.

43 SUB-SUPPLY

43.1 Supplier shall not enter into any contract for Sub-supply of any substantial part of the Work without the prior written consent of GNN. Such consent shall be obtained for all Work that shall be performed at GNN premises. Sub-supplies GNN shall notify Supplier of its decision within seven (7) days after having been asked by Supplier.

44 VARIATIONS

44.1 GNN has the right to instruct any Variation to the Work that in GNN's opinion is desirable. Variations to the Work may include a change in the Contract, an increase or decrease in the quantity, character, quality, nature or execution of the Work, or any part thereof. When GNN issues a Variation Order, Supplier shall without undue delay give a description of the effect on the Contract Price and schedule.

44.4 Unless otherwise agreed between the parties, the price for Variations to the Work shall be determined according to the following principles:

- a) If the Contract contains prices and rates for the Variation to the Work in question, such rates shall apply to such variation work.
- b) In cases other than those stated in item a), rates for Variations to the Work shall be prepared reflecting the general level of pricing prescribed in the Contract.

- 44.5 On receipt of a Variation Order, Supplier shall implement it without undue delay, even if the effects of the Variation Order or the instruction have not yet been set out.

13 CANCELLATION

- 13.1 GNN may by written notice to Supplier cancel the Contract whole or in parts at GNN's discretion. Upon cancellation, Supplier shall, in accordance with GNN's instructions, cease the performance of the Work (or the relevant parts of the Work) immediately.
- 13.3 Upon such cancellation, Supplier shall deliver copies of all plans, drawings, specifications and other documents which GNN has the right to use in accordance with art. 28 and "as built" drawings as on the cancellation date.
- 13.4 Following such cancellation, GNN shall pay the unpaid balance due to Supplier for that part of the Work already performed prior to receipt of the notice of cancellation, and any direct costs incurred by Supplier and Sub-Suppliers following the cancellation.

15 DELIVERY

- 15.1 Delivery is deemed to have happened on the later of the date the Contract Object is delivered in accordance with the agreed Incoterms and the Delivery Date.
- 15.2 If it is agreed that GNN shall undertake installation and commissioning of the Contract Object, and/or that the Contract Object shall be tested (hereunder FAT) later, Delivery shall be deemed to have taken place after such installation and commissioning and/or tests have been successfully completed
- 15.3 If the Contract states that the Contract Object shall be divided into more than one deliveries, then the provisions of 15.1 and 15.2 apply accordingly to each such delivery.

16 PAYMENT AND BANK GUARANTEE

- 16.2. If it is agreed that Supplier shall provide a guarantee, the following applies;
- The guarantee shall be an "on demand-guarantee" from a major European bank or insurance-company, acceptable to GNN, with a minimum long term rating of A+ or A 1 from either S&P or Moody's. In case of a decrease below the above mentioned ratings, the guarantee shall be replaced by a guarantee from another major European bank or insurance-company fulfilling the mentioned rating, or otherwise as approved by GNN in writing.
- 16.3. If it is agreed that Supplier shall provide a parent company guarantee, such guarantee shall guarantee all of Suppliers obligations under the Contract. The guarantee shall expire only when Supplier has fulfilled all of its obligations under the Contract, including all guarantee work.

19 GUARANTEE

- 19.1. Supplier guarantees:
- a) that the performance of the Work conform with specifications in the Contract;
 - b) that the Contract Object and materials delivered by Supplier for incorporation into the Contract Object are new and conform to the contractual requirements; and
 - c) that the Contract Object conform with all documents, drawings and specification provided by Supplier and the engineering performed by Supplier.
- 19.2. The Guarantee Period commences when Delivery shall be deemed to have happened in accordance with art. 15, and expires two (2) years thereafter unless otherwise agreed in the Form of Agreement.
- 19.3. In case Supplier performs guarantee work during the Guarantee Period, he guarantees according to art. 19.1 those parts of the Work affected by the guarantee work. This guarantee applies for two years after the date of completion of the guarantee work, unless the remaining part of the Guarantee Period is longer.

19.4. GNN shall be entitled to enforce the guarantees given by Sub-suppliers to Supplier.

20 FORSINKELSE

20.1 Delay occurs when any part of the Work has not been completed or delivered in accordance with the corresponding completion/delivery date(s) prescribed in the Contract Schedule.

In relation to the Delivery Date, delay occurs if Delivery has not occurred in accordance with art. 15.1 on the Delivery Date.

20.2 If the Work is delayed in relation to the penalty milestones set forth in the Form of Agreement, Supplier shall pay to GNN the liquidated damages stated in the Form of Agreement.

20.3 If Supplier is delayed in relation to the Delivery Date, Supplier shall pay to GNN 0.25 % of the Contract Price for each day as liquidated damages until Delivery has occurred in accordance with 15.1.

20.4 Supplier's cumulative liability for liquidated damages under the Contract is limited to 15 % of the Contract Price. The amount payable as liquidated damages become due immediately at GNN's demand.

20.5 GNN may terminate the Contract in accordance with art. 20 due to delay. The provisions set out in art.20 and 22 are GNN's sole remedies against Suppliers' delay.

21 DEFECT AND GUARANTEE LIABILITY

21.1 If the Contract Object has a defect when delivered to GNN, or if a defect arises for which Supplier is liable under his guarantee in accordance with art. 19, then Supplier is responsible for the defect in accordance with the provision of this article 21.

21.2 When Supplier is responsible for a defect, Supplier shall rectify it as soon as possible at his own cost, expense and risk.

21.3 If Supplier is unable to rectify a defect within a reasonable time after GNN's notification, GNN shall be entitled to rectify the defect itself or to engage a Third Party to do so. In such case, Supplier shall pay all necessary costs for the rectification provided that GNN acts in a reasonable manner.

In addition GNN may claim damages for expenses incurred in providing access to the defect, expenses incurred in ascertaining the defect, and related expenses directly connected to the defect or the rectification of the defect.

If GNN refuses to allow Supplier to perform the rectification work, then Supplier shall pay to GNN an amount calculated in accordance with 11.4 for the work that Supplier were obligated to perform.

22 TERMINATION

22.1 GNN is entitled to terminate the Contract in whole or in part of with immediate effect upon written notice to Supplier when:

- a) Supplier is, or is reasonably anticipated to become, in substantial breach of any of its obligations under the Contract, including failure to comply with any instruction given by GNN hereunder, or
- b) GNN has become entitled to be paid maximum liquidated damages in accordance with art. 20, or
- c) Supplier does not provide a satisfactory bank guarantee or parent company guarantee to GNN as per art. 16, or
- d) Supplier becomes insolvent, makes an arrangement with his creditors regarding a payment extension or relief, goes into liquidation, has an execution/restraining order levied on his goods, stops his payments, the ownership structure of Supplier or that of its parent company is changed, a significant part of Supplier's assets is sold or transferred to any other party.

- 22.2 Upon termination of the Contract, GNN is entitled to take over from Supplier the Contract Object, materials, Sub-supplies, documents and other rights necessary to enable GNN to complete the Contract Object, either by itself or with the assistance of others.

Supplier is entitled to be paid for the part of the Work performed, less any amounts due from Supplier to GNN.

- 22.3 When the Contract is terminated, GNN shall also be entitled to claim any direct cost or direct loss incurred due to the termination.

23 GNN'S BREACH OF CONTRACT

- 23.1 If GNN is late in providing deliverables, in making decisions or in performing other of his obligations under the Contract, then Supplier shall be entitled to an adjustment of the schedule and/or Contract Price. Such adjustment shall reasonably reflect the consequences of the delay caused to Supplier by GNN's breach of Contract.

- 23.2 If GNN fails to pay invoices due to Supplier, Supplier shall as sole remedy for any delay in payment of any undisputed invoice be entitled to interest according to Norwegian Act - "Interest on overdue payment" ("Forsinkelsesrenteloven"), unless the delay is caused by insufficient invoice documentation from Supplier and GNN has notified Supplier of this no later than the due date.

24 FORCE MAJEURE

- 24.1 Neither of the parties shall be considered as being in breach of its obligations under the Contract to the extent the party can establish that the fulfilment of certain contractual obligations has been prevented by Force Majeure.

- 24.2 The party invoking Force Majeure shall, as soon as possible, notify the other party of the Force Majeure situation.

- 24.3 In the case of Force Majeure, each party shall cover its own costs resulting from the Force Majeure situation.

- 24.4 If a Force Majeure situation lasts without interruption for 120 days or more, or it is evident that it will do so, GNN shall have the right to cancel the Contract by giving a written notice.

25 LOSS OR DAMAGE TO THE CONTRACT OBJECT

- 25.1 If loss of or damage to the Contract Object occurs between the start of the Work until Delivery, Supplier shall carry out necessary measures to ensure that the Work is completed in accordance with the Contract.

- 25.2 The costs of carrying out such measures as are stated in art. 25.1 shall be borne by Supplier unless the damage is caused by GNN.

26 EXCLUSION OF LIABILITY – INDEMNIFICATION

- 26.1 Unless otherwise stated in the Contract, each party shall be responsible for its own negligent acts causing damage to the other party or any Third Party.

- 26.6 Supplier shall not be held liable for GNN's indirect losses, and GNN shall not be held liable for Supplier Group's own indirect losses. If GNN still is held liable for any of Supplier Group's indirect losses, Supplier shall indemnify GNN.

27 INSURANCE

- 27.1 Supplier is obligated to take out and maintain insurances for any cases of damage and liability which may arise during the performance of the Contract. The Supplier is obligated to have a satisfactory accident insurance and personnel insurances, imposed by law, for his employees. GNN may require the documentation of the insurance coverage and the range of the insurance.

28 INTELLECTUAL PROPERTY RIGHTS

- 28.3. Supplier shall grant to GNN an irrevocable, royalty-free, non-exclusive license to use background and developed intellectual property vesting in Supplier Group to the extent necessary for operation, repair, modification, extension, rebuilding and maintenance of the Contract Object. Supplier guarantees that he has the right to use all his inputs, including any Third Party's intellectual property, and that Third Party's rights will not be violated in the execution of the Contract. Supplier is liable for any loss incurred by GNN due to breach of this article.

29 CONFIDENTIAL INFORMATION

- 29.5 All information exchanged between the parties shall be treated as confidential and shall not be disclosed to any Third Party without the other Party's prior written permission, unless such information;
- a) is already known to the party in question at the time the information was received, or
 - b) is or becomes part of the public domain other than through the fault or breach of this undertaking by any member of Supplier or GNN, or
 - c) is received from a Third Party, which to the receiving party's reasonable knowledge is not under an obligation of confidentiality.

The provisions of this article shall not prevent a party from disclosing confidential information to a public authority, a commonly recognized stock exchange to the extent necessary according to applicable law, or its legal and/or financial advisers.

31 CHOICE OF LAW AND DISPUTE RESOLUTION

- 31.1 This Contract shall be governed by and interpreted in accordance with Norwegian law. This shall apply without regard to any principles of conflicts of laws or the provisions of the Convention on the International Sale of Goods.
- 31.2 The parties recognize that the amicable settlement of disputes is in their mutual best interests. As such, the parties agree to promptly notify the other Party of any dispute and to engage in good faith in consultations to resolve such a dispute. If such consultations do not resolve the dispute within 30 days from notification thereof, the parties agree to submit any dispute to consultations between the General Managers of the parties. If such consultations fail to resolve the dispute within 30 days from submission, the dispute shall be settled by arbitration in accordance with the Norwegian Arbitration Act of 14 May 2004. The venue of arbitration shall be Kristiansand, Norway.