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## General Conditions for Sales of Services

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### 1 GENERAL

- 1.1 These general conditions (“General Conditions”) apply to all sale of services (“Services”) made by the **Institute for Energy Technology**, including the individual departments and companies directly or indirectly controlled by the Institute for Energy Technology (“the Institute”), as well as to all sales for which the Institute’s project description, offer or order confirmation (“the Project Description”) or the agreement document between the parties (“the Agreement”) refer to General Conditions. Any deviating terms have no effect on the sale of Services, even if these are appended in accompanying enclosures by whoever purchasing the Service (“Client”), unless the Institute has approved and explicitly accepted them in writing.
- 1.2 Any deviations from the Institute’s Project Description shall not be valid unless clearly specified and accepted in writing by the Institute, at the latest in the order confirmation issued by the Institute.
- 1.3 The Agreement between the parties is entered into by separate agreement document or by Client’s written purchase order followed by the Institute’s written order confirmation. In the latter case, the Institute’s order confirmation is the equivalent of the agreement document.
- 1.4 If the content of the documents that are part of the Agreement contradict one another, the documents shall have the following order of precedence unless otherwise agreed:
  - (a) Agreement document
  - (b) The Institute’s Project Description
  - (c) The Client’s purchase order
  - (d) These General Conditions

### 2 PERFORMANCE OF THE SERVICE

- 2.1 The Institute will perform the Service in compliance with the Agreement, including the provisions of these General Conditions and otherwise in an efficient and professional manner in compliance with the quality requirements for performance that apply among recognised providers of commissioned research and development services.
- 2.2 Each party shall notify the other party without undue delay of any circumstances that they understand or should understand will have an impact on performance of the Service, including any anticipated delays.
- 2.3 Before the commencement of the Service, the Client shall inform and assist the Institute to obtain any industry specific permits or licenses needed for the performance of the Service. The Institute shall bear the cost of such industry specific permits or licenses as explicitly set out in the Agreement.
- 2.4 In the event the Client specifies requirements for materials, equipment, construction options, methods, guidelines, etc., such requirements shall apply to the Service provided by written acceptance by the Institute. The responsibility for the use of such materials, equipment, construction options, methods, guidelines, etc. shall vest solely in the Client.
- 2.5 Each of the parties shall appoint a contact person who will be authorized to act on behalf of the party in all matters regarding this Agreement, and at a party’s request a separate contact person for each party to follow up on matters regarding the performance of the Service.
- 2.6 A party cannot transfer its rights and obligations under this Agreement to any other third party without the consent of the other party. This applies likewise to transfer within a party’s company



group and in the event of change of the party's company structure. Approval shall not be unreasonably withheld.

- 2.7 The Service is completed by Institute's submission of final report to the Client, or a notice confirming that the Service is completed in compliance with the Agreement.
- 2.8 Upon receipt of such final report or notice of completion, the Client shall duly examine the Service and revert to the Institute promptly if there are any deficiency relating to the Service. If the Client does not report a deficiency to the Institute within five calendar days, the Service shall be deemed as accepted by the Client.

### **3 PERSONNEL**

- 3.1 The Institute is responsible for ensuring that the assigned professional personnel have the public authorizations, education and certificates etc. according to the agreement between the Parties and that are necessary to perform the Service.
- 3.2 The Client shall not be considered the employer of the Institute personnel, even if such personnel are to perform the Service or parts thereof in collaboration with the Client's organization at the Client's place of business, nor shall the Client make any attempt to solicit Institute personnel, sub-suppliers or collaborating partners.
- 3.3 The Institute may withdraw or replace personnel from the Service upon written notice to the Client. In event of replacement of personnel on basis of this clause 3.3 training of new personnel will be at the expense of the Institute.
- 3.4 The Client may, at its own cost, request the Institute to replace personnel who the Client deems unfit to perform the Service without undue delay.
- 3.5 A party shall immediately notify the other party of any existing or potential conflict of interest in connection with the Service.

### **4 HSE AND QUALITY ASSURANCE**

- 4.1 The parties are expected to have implemented internal HSE guidelines and a management system based on HSE legislation, adapted to the party's activity and size. The guidelines and management system shall have the clear support of the individual party's leadership and be subject to an annual audit.
- 4.2 Each of the parties shall plan and perform the execution of Service in a manner ensuring that no lives will be lost, and that there shall be no damage to health, facilities and equipment, nor pollution and emissions, and that no production and/or processes shall cease to function. The Client shall grant the Institute access to the Client's relevant quality documents, and before the Assignment commences, the Institute will familiarize itself with the relevant quality documents. When so requested, the Institute will prepare a separate quality plan adapted to the performance of the Service at the Client's cost.
- 4.3 When visiting at a facility or installation belonging to the other Party, the visiting Party shall follow the existing applicable rules and guidelines of the owner of the facility. The Party owning the facilities shall familiarize the visiting Party with the regulations relevant for the visit or applicable for the Assignment at any given time.
- 4.4 A party shall without undue delay report to the other party on incidents, accidents and near-misses associated with the Service.
- 4.5 During the term of the Agreement, and for 24 months after the completion of the calendar year in which the Service is completed or terminated, each of the parties has the right to audit the accounts, documents, etc., including information relating to HSE relating to the performance of the Service. Such audit shall be carried out within normal working hours and only to the extent that it does not affect the implementation of the Service. The parties agree to give the auditors access to all the systems and data necessary to perform the audit, and shall otherwise ensure

that the audit will be carried out effectively and without unnecessary delay. All costs relating to an audit shall be borne by the auditing party. Written notification of an audit shall be sent to the party subject to the audit, at least 30 days prior to the planned commencement of the audit.

- 4.6 The Client shall inform the Institute of any relevant potential hazardous material or inherent HSE risks relating to the Client's solutions, methods, equipment or materials that may represent an HSE risk to Institute personnel.

## **5 COMPLIANCE**

- 5.1 Each party is committed to maintain the highest ethical standards when conducting their business. Each of the parties shall ensure that all of its employees, board members and sub-contractors undertake the same commitment. The Institute's Ethical Guidelines and Basic Values shall apply between the Parties. Unless otherwise agreed in writing, the Ethical Standards of Research issued by the Research Council of Norway, shall only apply if and to the extent that the Research Council in Norway has founded the Service.
- 5.2 Each of the parties shall avoid conflicts of interest in its contact with organisations and/or persons involved in the Service.
- 5.3 Each of the parties shall conduct their activities in a manner designed to counter any corruption and improprieties. A party shall, without undue delay, inform the other party if there are indications of corruption and improprieties of which a party becomes aware during the implementation of the Service. Furthermore, the parties agree, in the performance of the activities related to this Agreement, not to accept or offer any form of gift, offer, payment or other type of advantage that entails unlawful or corrupt practice.
- 5.4 An exporting party agrees to comply with applicable rules for export control. If a party performs activities, including the export of products, technology and software requiring an export license, said party shall apply well in advance for the required licenses and ensure that the other party have access to copies with the Export Control Classification Number (ECCN) at the time of application submission. A party shall indemnify the other party for all fines, costs and any and all liabilities that may arise as a result of said party's violation of this provision.
- 5.5 Any breach of the provisions of section 4 or 5 entitles the non-breaching party to terminate the Agreement upon its sole discretion.

## **6 PRICE AND PAYMENT**

- 6.1 If not otherwise agreed in writing, the Institute shall invoice the Client monthly on basis of hours spent and the Institute pricelist as updated from time to time. Any invoice from the Institute to the Client shall be paid 30 days after invoice date and otherwise in accordance with the conditions laid down in the Agreement. Agreed prices are subject to regular updates by the Institute. Work beyond normal working hours may affect the hourly rate. If a total frame of cost has been agreed, the amount is subject to revision on basis of changes approved by the Client.
- 6.2 Travel cost and subsistence allowance incurred in connection with performance of the Service, shall be reimbursed by the Client. The Institute may also invoice elapsed travel time unless otherwise agreed.
- 6.3 The Client shall pay the final settlement to the Institute within 30 days after issue date for invoice for final settlement.
- 6.4 If an invoice remains undisputed for three calendar days after the invoice was sent to the Client, the invoice shall be deemed as correct and accepted by the Client. The Client is not entitled to withhold disputed amounts in part or in whole. Any incorrect payment from the Client will be reimbursed to the Client when the Institute has received a satisfactory explanation or documentation for the dispute.

## **7 INTELLECTUAL PROPERTY RIGHTS**



- 7.1 Background. All knowledge, including but not limited to technical solutions, methods, processes and procedures, all copyrights and other rights to trademarks, design, plant species, databases, integrated circuit layout designs, drawings, specifications, prototypes, company confidential information and the like regardless of whether or not these are or may be patented or protected by law that the Institute has made use of to perform the Assignment shall remain in the sole and exclusive ownership of the Institute.
- 7.2 Results. All results produced or achieved through the work carried out under the Agreement and within the scope of the Assignment, regardless of whether or not the results are protected by law shall be the owned by the Client, hereby reports, drawings, specifications and similar documents. All results produced or achieved through the work carried out related to the Agreement and without the scope of the Assignment, regardless of whether or not the results are protected by law shall be the owned by the Institute. Unless otherwise is clearly accepted in writing by the Institute, the Client shall in no event become owner or be considered to have been granted access rights of computer programs or parts thereof and the Institute shall not be obligated to inform the Client of source code or object code of computer programs, software, simulation models, etc.
- 7.3 Access rights. The Institute may freely use general knowhow obtained in connection with the Agreement that is not subject to confidentiality. The Institute is granted a non-exclusive, non-sublicensable, royalty-free, irrevocable, global right to access the results produced or achieved through the work carried out under the Agreement that is owned by the Client for educational and research purposes, including commissioned research. For use in commissioned research, the access right shall be sub-licensable to the extent required to enable the recipient of the commissioned research to utilise the results of this research, and further that such use falls without the Client's field of operations. The Client's access rights to background shall be subject to a separate agreement with the Institute.

## **8 WARRANTY**

- 8.1 The Institute is not responsible for any activity or incident beyond the original scope of the Assignment, nor is the Institute responsible for incorrect solutions or methods prescribed by the Client or errors in equipment or material supplied by the Client. The Institute's confirmation or receipt of the Assignment, including, but not limited to solutions, methods, equipment, documents or materials relating thereto shall not be constructed as Institute's approval of any of the aforementioned.
- 8.2 Research activities inherently entails uncertainty regarding the results to be achieved, and the Institute is therefore not liable to the Client to achieve a specific result or a specific target that has been set for the research activity, provided that the conditions relating to the performance of the research activity as specified in the Agreement have been met.
- 8.3 In respect of the information or materials, including background and results, that the Institute supply or make available to the Client relating to this Agreement, no warranty is made that these are free of error, complete, suitable for a specific purpose or appropriate for the Client's or end customer's needs, unless explicitly agreed in writing. Moreover, the Institute makes no warranty that such information or materials does not or will not come to infringe on the intellectual property rights or other rights of third parties. The Parties agree to notify the each other immediately if they become aware of, or have reason to believe, that an infringement of the rights of a third party has taken or will come to take place. A Client receiving or making use of such information or materials as set out in this paragraph is entirely and solely responsible for its use of this. A Party that grants access rights shall not be liable for any infringement of the intellectual property rights or other rights of third parties resulting from another Party exercising its access rights.

## **9 VARIATIONS – CANCELLATION**

- 9.1 The Client has the right to prescribe variations of any kind to the Assignment, including changes in the progress schedule. The Client cannot, however, demand any variations that go beyond what the Parties could have reasonably anticipated when the Agreement was entered into. The



Institute is entitled to adjustments in payment and/or delivery schedule resulting from a variation order, including administration costs. Unless otherwise agreed, compensation is calculated based on the reasonable value of equivalent services at the time of the variation order. If the Client requires variations, the Institute shall, within reasonable time, inform the Client of any impact on price and the time schedule.

- 9.2 Any variations prescribed by the Client shall be approved by the Institute in form of a variation order confirmation in writing to the Client within reasonable time and before implementation of the variation order. The variation order must specify that a variation is requested, and what the variation involves. Where the Institute sees fit, it will keep an ongoing, updated catalogue of all variations.
- 9.3 If the Institute discovers a need for variations, the Client will be notified of this within reasonable time. The same applies if the Institute has proposals to variations that will entail improvement, simplification, or other benefits for the Client.
- 9.4 If the Institute wishes to invoke that the Client's requirement represents a variation entitling the Institute to additional payment or an extended deadline, in the absence of a variation order, the Institute shall, within reasonable time, submit a written variation order request to the Client. The Client shall answer the Institute's request within three calendar days, otherwise the request is deemed accepted.
- 9.5 The Institute has no obligation to implement a variation order before it has been agreed upon by the Parties, and the Institute shall not be liable for postponed implementation of disputed variation orders.
- 9.6 The Client may, at any given time with sixty days prior written notice, postpone all or parts of the Assignment. In the event of such postponement, the Institute shall notify the Client of any impact postponement might have on completion of the Assignment. The Institute shall resume work as soon as it is notified by the Client to do so. If the period of postponement lasts beyond what is notified, the Institute has the right to terminate the Agreement or the Assignment via written notification to the Client. The notification shall inform the Client that termination can be avoided by sending notice, within seven calendar days, that the Assignment is to be resumed.
- 9.7 During the period of postponement, the Client shall pay compensation to the Institute for documented and necessary costs and expenses in connection with the postponement, hereby, but not limited to any reassignment of the work personnel.
- 9.8 The Client may cancel the Assignment at any given time with sixty days prior written notice, provided that Client shall covers any documented and necessary costs incurred in connection with an orderly closeout of the Assignment.

## **10 BREACH OF CONTRACT AND CONSEQUENCES OF SUCH BREACH**

- 10.1 The Client shall notify the Institute in writing of any defect to the Assignment within three calendar days after the defect has been or should have been detected, but in no event later than three calendar days after the Assignment completion date set out in the Agreement. If the Client does not notify the Institute within the aforementioned deadline, the Assignment shall be deemed to be completed in compliance with the Agreement.
- 10.2 In event of defect for which the Institute is responsible, the Parties shall agree on appropriate measures to remedy such defect subject to the limitations of liability set forth in the Agreement. If the defect is not capable of remedy, the Client may terminate the contract giving sixty days prior written notice to the Institute.
- 10.3 In the event of delay caused by the Institute, the Parties shall agree on appropriate measures to remedy such delay subject to the limitations of liability set forth in the Agreement. If the Client does not notify the Institute within three calendar days after the first occurrence of delay, the delay shall be deemed to have no effect on the fulfillment of the purpose of the Assignment.



- 10.4 If a Party is in material breach of the Agreement, the other Party shall notify the Party in breach in writing specifying the breach and giving the Party in breach thirty calendar days' notice to mend the breach. If the breach is not mended within the deadline the non-breaching Party may terminate the Agreement with immediate effect.
- 10.5 Either Party may claim compensation for direct loss as a result of breach of contract. The Institute shall in no event be responsible for indirect or consequential loss, except in event of gross negligence. The Institute's liability related to a specific Assignment shall be limited to 10 % of the agreed Assignment price, and the Institute's aggregated liability relating to the Agreement shall in no event exceed 10 % of Agreement value.
- 10.6 The Client shall indemnify and hold each other harmless the Institute from and against any claim, loss, expense or damage related to infringement of a third party's patent rights or other intellectual property rights, hereby, but not limited to when this is a necessary consequence of the Client's specifications.
- 10.7 The Parties shall indemnify each other against any damage to its own personnel, property or equipment. This indemnification shall not apply if the loss or damage was caused by a Party's gross negligence or willful misconduct. Each Party is liable for and shall indemnify the other Party against damage it causes to third parties.
- 10.8 In the event of termination, the Client shall settle all payments due, as well as work that has been performed and costs that has incurred before the written notice of termination of the Agreement has been received by the Institute.

## **11 FORCE MAJEURE**

- 11.1 If an extraordinary event occurs, that according to Norwegian law, is considered to be Force Majeure, and they impede the performance of the Agreement or makes performance unreasonably onerous, the other Party must be informed as soon as possible. The Parties' obligations are suspended for as long as the extraordinary situation persists. If the extraordinary situation lasts, or is expected to last, for more than sixty days, the Party that is unaffected by Force Majeure may terminate the Agreement by written notice. Such notification must be given with at least thirty days advance notice.

## **12 INSURANCE**

- 12.1 The Parties shall, at their own expense, provide and maintain liability insurance adapted to their respective businesses and the nature of the Assignment, that will cover loss or damage to persons or property in an amount that satisfies the requirements of the Agreement. Unless otherwise agreed, the amount of liability protection must never amount to less than NOK 3 million for each insurance event.

## **13 CONFIDENTIALITY.**

- 13.1 Confidential Information means all information, documentation or material that is associated with, or specifies, a Party's business affairs, plans, research-related information, methods or know-how, including background and results, and regardless of format and whether or not it has been labelled as "confidential".
- 13.2 During the term of the Agreement and for a subsequent period of five years regardless of reason for termination, the Parties shall keep confidential all Confidential Information they have acquired knowledge of in connection with the Agreement, and to store this information in a secure manner. The confidentiality obligation does not include disclosure of Confidential Information to employees and third parties, including affiliated entities, contractors and sub-contractors, when access to such Confidential Information is necessary to perform tasks under the Agreement or to utilise results according to the Agreement.





- 13.3 Confidential Information shall only be used to fulfill the Agreement and to utilise results. The Parties shall ensure that all employees and third parties, including affiliated entities, contractors and subcontractors, which are given access to Confidential Information, are apprised of and comply with the above confidentiality obligation. When needed, a separate confidentiality agreement shall be signed with contents corresponding to that set out in this section.
- 13.4 The following information is not considered to be Confidential Information:
- information already known to the Party in question at the time it was received;
  - information that is or becomes generally known in a manner other than through breach of confidentiality under this Agreement;
  - information received from a third party with no known confidentiality obligations;
  - information developed by a Party without the use of Confidential Information.
- 13.5 The above confidentiality obligation shall not prevent the publication of results in line with the exercise of access rights as set out in this Agreement. Neither does the confidentiality obligation preclude the legally mandated disclosure to the courts and other public authorities, and disclosure pursuant to the Freedom of Information Act.
- 13.6 The Parties may issue joint press releases, announcements or advertisement pertaining to the Assignment, provided prior written acceptance by both Parties.

#### **14 APPLICABLE LAW AND PLACE OF JURISDICTION**

- 14.1 In the event of a dispute regarding the Agreement, efforts will be made to solve it through negotiations. If negotiations fail to yield a positive result, the case will be submitted to the ordinary courts of law, unless the parties agree to submit the case for decision by arbitration. The Agreement is governed by Norwegian law, and Oslo District Court is the court of venue unless the parties agree on another venue.