

# GENERAL PROCUREMENT TERMS AND CONDITIONS

## BINDERHOLZ NORDIC OY

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### 1. Scope

1.1. These general procurement terms and conditions ("General Terms") shall apply to all Binderholz Nordic Oy's ("Customer") purchases from the service providers, the sellers and the contractors ("Supplier"). In addition to these General Terms, certain field-specific procurement terms ("Specific Terms") applicable at time shall apply also to all Customer's purchases.

1.2. Above mentioned General Terms and Specific Terms shall be applied thus that in the event of inconsistency between the General Terms and the Specific Terms, the General Terms shall prevail, unless there is an explicit provision in the Specific Terms that a certain provision of Specific Terms shall prevail against the General Terms

1.3. In the event of inconsistency between certain terms or certain sections of terms, an interpretation in favor of the Customer shall always prevail.

1.4. All agreements differing from or supplementing the General Terms shall be agreed in writing between the Customer and the Supplier.

1.5. The general terms and conditions of the Supplier shall apply only if the Customer has specifically agreed the application in writing.

1.6. An agreement between the Customer and the Supplier is considered to have been made when the Customer has received and confirmed the written order confirmation of the Supplier.

### 2. General obligations

2.1. The Supplier undertakes to perform and fulfill all contractual performances and obligations flawlessly, diligently and professionally, and to comply with the Customer's plans, instructions, available technical solutions as well as all laws, legislations and governmental guidelines diligently and accurately.

2.2. The Supplier undertakes to ensure that its delivery or other performances complies in quality and in all other aspects with the applicable laws, regulations and governmental guidelines of the place of delivery or performance, including national and European Union's regulations.

2.3. In case the implementation documents of the project differ from what have been agreed upon in the tender, all amendments or an issuance of a new tender shall be agreed in writing in form of a new order made by the Customer. Otherwise, the Customer shall have the right to refuse the payment of such additional and other performances which differ from the original agreement, tender or other implementation documents.

2.4. The increasing of the performances' volume with a given unit price and differing from the originally agreed scope of the services, shall be considered as an additional work. The additional work shall require the written approval of the Customer. An additional work performed based on an oral agreement shall be considered as free of charge.

2.5. All deliveries and performances of the Supplier shall correspond to the agreed specifications of the components and parts both in qualities and also in all other aspects.

2.6. Regardless of the details described in the specifications of the components and parts, the Supplier undertakes to ensure that, in accordance with the

obligation of performance, the delivery or other performance can be used safely and reliably, and is in accordance with the customary technical requirements required for such deliveries or equipment, and is suitable for the usage for which the Customer has ordered it.

### 3. Implementation of the projects

3.1. The Supplier undertakes to maintain a good order and a clean environment at the construction or other implementation premises, and to remove, at its own expense, all waste in connection with the delivery or other performances with due care.

3.2. Smoking is forbidden on all Customer managed premises or buildings, both indoor and outdoor premises, and it is only allowed on specific marked smoking areas. The usage or being under the influence of alcohol or other intoxicating substance is strictly forbidden on all Customer's premises or production plants. The Customer is entitled to receive one thousand (1,000.00) euros in liquidated damages per each breach of the section 3.1 or 3.2 of this General Terms, and the Customer is entitled to deduct the said amount from the final or other invoice of the project.

3.3. The Supplier undertakes to ensure that the Supplier's representative is available on the performance premise for entire duration of the project and the representative has been given sufficient authority to make, on behalf of the Supplier, customary decisions necessary during the course of a project. The representative is fluent in English and manages sufficiently the local language of the place of delivery or performance.

3.4. The Supplier undertakes to ensure the strict compliance of the legislation, regulations and governmental guidelines regarding the expatriate or foreign employees, and the Customer is entitled to terminate the agreement with immediate effect if the terms of this section of the General Terms is breached. The Supplier undertakes, without limitations, to indemnify and hold harmless the Customer or a third party for all damages, expenses and losses incurred by the Customer or a third party as a result of the breach of the terms of this section of the General Terms.

3.5. If at the premises of the Customer, the delivery or the performance includes work or services that are to be carried out by the staff or the subcontractors of the Supplier, persons participating the delivery or performance shall have to report to the representative or the project manager of the Customer when arriving to the premise. In addition, these persons shall have to report to the representative or the project manager of the Customer when leaving the premises. The Supplier does not have the right to replace or reduce the number of the staff placed at the premises or signed to the premise without prior written approval from the Customer.

3.6. The Supplier undertakes to bear all costs incurred to itself in connection with the acceptance test or other tests or inspections.

### 4. Spare parts

4.1. The potential exclusivity or distribution agreements between the Supplier and the spare part suppliers shall not apply in relation to the Customer, and the Customer shall always have the right to purchase spare parts directly from the manufacturer or other distributor as

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deemed appropriate by the Customer. The Supplier undertakes to ensure that the spare part suppliers shall deliver the spare parts to the Customer without the restrictive contractual arrangements described in this section of the General Terms, and undertakes to indemnify and hold harmless the Customer for damages and costs that may incurred in connection with the availability restrictions or price increases of the spare parts.

4.2. As for the mechanical spare parts (such as hydraulic pumps), the Supplier undertakes to ensure that the mechanical spare parts compatible with the delivered installation or equipment are available to the Customer at least 15 years starting from the delivery of the installation and/or equipment.

4.3. As for the spare parts and updates of the electrical or IT systems, the Supplier undertakes to ensure that the spare parts, updates or support services compatible with the delivered installation or equipment are available to the Customer at least 10 years starting from the delivery of the installation and/or equipment.

4.4. Prior to the delivery, the Supplier undertakes to prepare a list for the Customer of all spare parts that the Supplier recommends to be kept in the storage of the Customer in order to ensure the functionality of the equipment. If specific spare parts are stated in the maintenance program of the equipment, detailed order instructions of the said specific spare parts shall be included in the list. In addition, for the purpose of the implementation of the equipment, a separate list shall be prepared in regards to the spare parts that are recommended to be kept in the storage.

### 5. Implementation

5.1. The Supplier undertakes to deliver to the Customer as minimum the interim documentation in four copies prior to the installation and/or implementation of the equipment. Said interim documentation should correspond to the actual updated documentation stated in the General Terms. In addition, the Supplier undertakes to provide the necessary CE marking and other corresponding certificates prior to the implementation.

5.2. The implementation shall be carried out in the presence of the Customer's representative, and the implementation, including the testing carried out in connection of the implementation, shall be documented in writing. The Customer shall carry out the delivery for the acceptance (for which the Customer shall provide a separate written document) based on the implementation documentation.

5.3. In connection with the implementation, individuals selected by the Customer shall be introduced to the usage of the installation and/or equipment, and the Supplier undertakes to provide the instruction and maintenance manual in four copies to the Customer. In addition, the Supplier undertakes to provide all testing records and reports as well as documents in regards to the supervision of the usage to the Customer.

5.4. The implementation process shall be considered completed once the Customer's staff is able to use the installation and/or equipment independently, and the installation or equipment has fulfilled all conditions and requirements agreed in the order documents, and the technical properties of the installation and/or equipment

are as agreed by the parties. In addition, the installation and/or equipment shall comply with all applicable laws, regulations and governmental guidelines.

### 6. Acceptance of delivery

6.1. An explicit written confirmation from the Customer is required in order for the delivery of the installation and/or equipment in whole or in part to be considered as accepted. The delivery of the installation and/or equipment shall not be considered as accepted solely on basis of the fact that the Customer has either in whole or in part started the usage of the installation and/or equipment.

6.2. The Customer shall confirm the acceptance of the delivery at its discretion once the Customer has inspected and trial tested the installation and/or equipment in order to ensure that the installation and/or equipment are all as agreed, and the Supplier has corrected all possible non-conformities or defects in connection with the installation and/or equipment.

6.3. The risk of loss and damage of the installation and/or equipment shall pass to the Customer once the delivery has been accepted. The acceptance of the delivery shall be documented by a written acceptance minutes. The acceptance minutes can only be signed by the managing directors, the board members or persons who have the statutory right to represent the Customer and the Supplier.

6.4. Prior to the acceptance of the delivery, the Supplier undertakes to provide to the Customer in four copies the documentation in accordance with the agreement regarding the installation or equipment. The documentation shall be provided in Finnish and English languages in the ISO A4 format, consequently the plans and drawings can be produced in ISO A4 format if deemed necessary, and the Supplier shall provide the said documentation to the Customer in both paper and electronic form. The documentation shall be considered as in an adequate electronic form when the file formats used are Word, Excel or PDF. In addition, pictures, plans and drawings have to be in either AutoCAD, DWG or DXF format, and electronic plans or connection diagram have to be in EPLAN format.

6.5. The maintenance and repair of the installation and/or equipment, as well as the compliance of the occupational health and safety or other similar laws, regulations and governmental guidelines are the sole responsibility of the Supplier until the Customer has accepted the deliver as described above.

### 7. Invoice, payment

7.1. The Customer shall pay the invoices or payment reminders within 30 days from the receipt of said invoice or payment reminder. Provided that the Customer pays the invoice within 14 days from the receipt of the invoice, the Customer shall have the right to receive early payment discount as agreed. Provided that the early payment discount has not been separately agreed by the parties, the early payment discount shall be 3 pro cent of the total amount of the invoice.

7.2. Agreed refunds, discounts and early payment discounts shall also apply to the optional contractual works, installments and potential additional works of the subcontractors or suppliers of the Supplier.

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7.3. The Customer shall have the right to withhold the contractual payments without any consequences for default or such, provided that the Supplier has not delivered the contractual performance in relation to the invoices in a manner acceptable and agreeable to the Customer.

7.4. The acceptance or payment of the invoice, a part of it or the payment reminder does not mean that the Customer has accepted the delivery in this respect.

7.5. The Supplier undertakes to itemize and categorize in the final invoice all services, works and other performances in relation to certain order or agreement, including outsourcing and additional works. The Customer is not obligated to inspect or pay the final invoice until the implementation process has been completed in a way satisfactory to the Customer, and the Customer has accepted the delivery in accordance with terms stated above.

7.6. The Customer is also not obligated to pay the final invoice or the last agreed installment to the Supplier until the Supplier has delivered to the Customer an agreed guarantee or other security acceptable to the Customer to cover the remaining contractual obligations of the Supplier.

### **8. Prohibition of transfer of receivables or other rights**

The Supplier does not have the right to transfer its receivables from the Customer to a third party without written consent of the Customer, and such transfers shall be considered as void. Provided that the Supplier breaches this prohibition of transfer, the Customer, at its consideration, shall have the right to cancel the order and/or terminate the agreement, as well as, at its consideration, to claim liquidated damages from the Supplier in an amount corresponding to 1 % of the value of the order or the agreement. The said liquidated damage does not restrict the Customer's right to demand full compensation from the Supplier on the basis of breach of contract.

### **9. Liability for damages**

9.1. Provided that the Supplier does not fulfill its order or contractual obligations at an agreed time schedule, the Supplier is obligated to pay to the Customer liquidated damages in amount corresponding to 2 % of the value of the order or the agreement for each day delayed, however, the total amount of liquidated damages shall not exceed 15 % of the value of the order or agreement. In addition, the Customer shall have the right to set off liquidated damages against the Supplier's receivables from the Customer regardless of the fact whether the receivables are overdue or not. In case the implementation of the order or delivery or other obligation related thereto has been delayed due to a reason attributable to the Customer, the delivery, payment and other schedules of the order or agreement shall be postponed, which is the sole consequence for the delay attributable to the Customer.

9.2. The Supplier is responsible for its subcontractors' delay as if it is its own delay.

### **10. Right of retention and delivery warranty**

Unless explicitly agreed otherwise or the Supplier has already provided to the Customer a guarantee or other

security agreeable to the Customer, the Customer shall have the right to retain an amount corresponding to 5 % of the amount of the final invoice or other final installment to cover the adequate performance of the Supplier's warranty and other unfulfilled contractual obligations. The right of retention (or the validity of other security) shall continue for one month after the warranty period or the period of fulfilment of other contractual obligation has ended.

### **11. Supplier's liability for defect**

11.1. The Supplier shall be responsible for the defects of the delivery for one (1) year after the period of the liability for defect pertaining to law has ended. For the sake of clarity, the duration of the right of retention or the validity of the security stated in section 10 above shall be determined by the period stated in this section added by one month in accordance with section 10.

11.2. If the Supplier removes the defects occurred in connection with the delivery, such removal of the defects shall be deemed as a new partial performance, for which the period of the liability for defect shall start from beginning in accordance with these General Terms. In case of ambiguity regarding the calculation point of the new period of the liability for defect, or whether to comply with the original period or the new period of the liability for defect stated hereto in this section, in such events, the calculation method that leads to a longer period of liability for defect shall prevail.

11.3. Above mentioned terms regarding the liability for defects shall not affect the commercial or other separate warranty undertakings granted to the Customer by the Supplier.

### **12. Health and safety, safety inspections**

12.1. The Supplier undertakes to provide to the Customer all safety related documents in relation to the installation and/or the safety of the equipment no later than delivering the parts or components of the installation or equipment to the Customer for the first time, and however, no later than the beginning of the installation work, in order for the Customer to carry out the necessary safety inspection as well as other necessary protective actions for the safety of workplace and the function of the business of the Customer in accordance with the requirements of the legislations of the installation or delivery place.

12.2. If the Supplier does not provide the documents stipulated in section 12.1 above to the Customer at the agreed time, the Customer shall have the right to claim liquidated damages in an amount of two thousand five hundred (2,500.00) euros from the Supplier. The Customer shall have the right to set off the said amount against the next invoice to be sent to the Supplier.

12.3. If the delivery of the Supplier includes components from the subcontractors, suppliers or third parties, and these components have functional or other interface with the Customer, the Supplier undertakes to provide the necessary documents of these components in accordance with section 12.1 above to the Customer in the terms as stipulated in sections 12.1 and 12.2. 12.4. The Supplier undertakes to provide to all persons participation in the installation work (regardless whether they are in the employment of the Supplier, the Customer or the third party) necessary health and safety guidelines

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and instructions, and to emphasize in the guidelines the importance of such work phases that include especially health and safety related risk factors. These health and safety guidelines and instructions shall be given for the first time prior to the beginning of the installation work, and all persons participating in the installation work shall acknowledge the receipt of the said documents by signing it. In addition, the Supplier undertakes to update the health and safety documents every 4 weeks starting from the beginning of installation work. A copy of these documents is to be given to the Customer in order for the Customer to ensure that the Supplier has fulfilled the obligations stipulated in these sections of the General Terms.

12.5. If above mentioned health and safety guidelines and work instructions have not been given in accordance with the terms of the General Terms, the Supplier is obligated to compensate to the Customer an amount of two thousand five hundred (2,500.00) euros as liquidated damages, and the Customer shall have the right to set off the said amount against the next invoice to be sent to the Supplier.

12.6. The Supplier warrants to the Customer that no evaluation procedure, report or administrative proceeding of the conformance of the CE marking is currently active in connection with any of the components or other parts or circumstances of the installation or equipment, and to the knowledge of the Supplier, no such activities is materializing in the near future.

12.7. The Supplier warrants that the installation and/or equipment in accordance with the order or agreement (including parts or components delivered by the third parties) fully meet all structural or other health and safety requirements, including usability, required by law. If the Customer shall detect such defects in the fulfillment of the requirements, the Supplier warrants to remove these defects without further delay at its own costs.

### **13. Cancellation of order and termination of agreement, Customer's right to cover purchase**

13.1. If the Supplier does not fulfill the obligation in accordance with the order or agreement despite the fact that the Customer has notified the Supplier of such breach of contract in writing and given the Supplier 14 days to rectify the breach, the Customer shall have the right, at its consideration, to:

- a) terminate the agreement with immediate effect by a written notice to the Supplier; or
- b) continue the fulfillment of the agreement despite the Supplier's breach of contract by ordering performances that the Supplier has breached from a third party at Supplier's costs.

13.2. The Supplier warrants to the Customer that all costs incurred in relation to the breach of contract by the Supplier, including the possible difference in price between the cover purchase and the equivalent pricing of the Supplier, shall be the responsibility of the Supplier.

### **14. Other terms**

14.1. These General Terms shall be governed by and construed in accordance with the laws of Finland, without regard to the Sale of Goods Act (355/1987).

14.2. The legal forum of first instance is the district court of North Karelia.

14.3. The orders and agreements in accordance with these General Terms are confidential information and the party shall not disclose confidential information to a third party without a written consent from the other party.

14.4. In the event of inconsistency, the order or agreement entered between the parties shall be applied primarily, the appendixes of the order or agreement, such as these General Terms, shall be applied secondarily.

14.5. In the event that a part of these General Terms or the orders or agreements entered based on the General Terms are deemed invalid due to the amendments of the legislations, regulations or other reasons, the rest of these General Terms and agreement shall remain in force.