

# Terms of Purchase and Delivery

*of Saferoad Daluiso A/S – below referred to as SRD. These general Terms of Purchase and Delivery shall apply unless otherwise specifically agreed in writing between the parties.*

**Definitions:** The Purchaser is SRD and the “Supplier” is the other party with whom SRD concludes an agreement.

## 1. Specification and Description

- 1.1. The Supplier shall deliver in strict compliance with in the purchase order, including materials certificates and testing certificates specified therein. To the extent that SRD has not specified the quality required, the delivery shall be in a good condition and suitable for the purpose for which the delivery was purchased. The delivery shall meet the requirements of current Danish rules, norms and other regulatory requirements, inclusive of EU directives etc. Unless otherwise explicitly stated in the order, delivery shall be effected at the address of SRD specified in the purchase order, and the product/documentation be ready for operation. SRD does not undertake e.g. assembly or completion of the delivery.
- 1.2. Any changes to specifications, prices or times of delivery or to these Terms of Purchase and Delivery shall be valid only if they have been confirmed by SRD in writing prior to delivery.
- 1.3. All drawings and technical documents which are handed over to the Supplier by SRD prior to or after conclusion of the contract, shall remain the property of SRD. Such materials shall not be copied, reproduced, passed on or otherwise communicated to any third party without SRD’s written permission, except to the extent this may be necessary for executing the order.
- 1.4. At the request of SRD, the Supplier shall free of charge provide SRD - either electronically or in print on size A4/A3 paper at SRD’s option - with information, identification lists, spare parts lists, maintenance instructions, drawings and installation instructions in Danish which are sufficiently detailed to enable SRD and/or SRD’s customers to install, put into operation, operate and maintain, including repair on a current basis, all parts of the delivery. Title to such information and drawings shall pass on to SRD.
- 1.5. The Supplier shall indemnify SRD for any claim that may be set up by a third party for alleged violation of patents, licenses, registered trademark or design, copyright, know-how and the like. In the event that SRD and/or SRD’s customers suffer a loss as a result of a violation of such rights, SRD and/or SRD’s customers are entitled to claim the supplier damages for such loss.
- 1.6. The Supplier undertakes to offer/suggest products favoring the environment and recycling.

## 2. Delivery

- 2.1. Delivery shall be DDP (Incoterms 2010) at the address stated in SRD’s purchase order.
- 2.2. The times of delivery stated in the purchase order shall be the arrival date of the goods and/or the documentation at the delivery address(es) stated in SRD’s purchase order. Delivery has been effected when the goods have been placed at SRD’s disposal at the address specified in SRD’s purchase order and when SRD has approved the goods received. In the event that the delivery/performance is defective, delivery is deemed not to have taken place until such defect has been remedied. Payment for the delivery shall not constitute approval of the delivery.  
The Supplier shall make all the necessary arrangements to ensure delivery at the times of delivery specified without additional costs for SRD.  
Delivery may not take place prior to the time stated in the purchase order unless subject to written consent by SRD.  
SRD shall immediately be notified of any delay or anticipated delay and receive written confirmation hereof. In cases where SRD cannot accept the delay, the Supplier shall pay liquidated damages for such delay according to the provisions below.

If times of delivery agreed as milestones prior to delivery are exceeded, the Supplier shall pay liquidated damages of 1% of the total order sum for each week of delay commenced. Liquidated damages for each delay accumulate. Notwithstanding the forgoing the Supplier shall not be liable to pay any part of the aforementioned liquidated damages, if the delivery by the Supplier takes place in accordance with the agreed time of final and complete delivery.

- 2.3. If delivery, whether in full or in part, is not effected timely, or if defects are not remedied until after the agreed time(s) of delivery, the Supplier shall pay liquidated damages of 1% of the total order sum for each commenced week of delay.  
The liquidated damages in clauses 2.2 and 2.3 accumulate. The maximum amount of liquidated damages is limited to 10% of the total order sum.
- 2.4. If the delivery or any part of thereof is delayed, SRD shall be entitled to demand delivery and to fix a final time of delivery by notifying the Supplier hereof in writing. If the delivery does not take place within the time so fixed, SRD shall be entitled to terminate the purchase by notifying the Supplier hereof in writing, and – in addition to liquidated damages - to claim damages from the Supplier for the directly loss caused by the delay, inclusive of direct loss in the event of operating disturbances. Damages shall be fixed in accordance with the general Danish law of damages.  
In case SRD elects to maintain the purchase, SRD shall nevertheless be entitled to damages and liquidated damages.  
If the Supplier suspends payments, enters into moratorium or any similar legal state or goes into bankruptcy, SRD is entitled to terminate the purchased and to claim liquidated damages, cf. clauses 2.2 and 2.3. If the purchase is terminated, SRD shall be exempt from any obligation to pay in part or in full for any work commenced etc.
- 2.5. In the event of delayed delivery as described in clause 2.4, SRD shall be entitled to cancel one or several orders for subsequent deliveries by notifying the Supplier in writing.
- 2.6. If required by SRD, the Supplier shall submit plans for drawings, production schedules and reports of production to the extent deemed necessary by SRD.

## 3. Quality control and follow-up on deliveries

- 3.1. SRD and/or SRD’s customer are entitled to inspect the product ordered during production at the locations where the production takes place.

## 4. Marking

- 4.1. The Supplier shall mark the delivery and include a delivery note stating description, quantity and SRD’s purchase order number. Lack of marking shall be regarded as a defect, cf. clause 2.2.
- 4.2. In cases where SRD delivers components / raw materials for processing at the Supplier premises, such materials shall be marked and identified as SRD’s property immediately upon arrival at the Supplier premises and shall be stored properly and be covered by the Supplier’s insurance.

## 5. Packing

- 5.1. The agreed prices include the necessary packing, including pallets and drums. SRD accepts no charge of any kind for packing.

## 6. Returned goods

- 6.1. Goods delivered which SRD does not use may be returned for crediting to SRD’s account, provided that the goods are in the same order as when received and subject to prior agreement.

## **7. Payment**

7.1. The terms of payment shall be as stated in the purchase order, or, if not set out therein, it shall be current month + 60 days, and in either case subject to approval of the goods delivered and the invoice. The invoice must state SRD's purchase order number to be approved. The invoice shall be forwarded to the invoice address stated in the purchase order. Payment is subject to full and complete delivery, including receipt of the relevant certificates, drawings and other technical documentation according to the purchase order. The Supplier's right to receive payment shall not be the object of any pledge or assignment, including factoring, without the prior written consent of SRD. Damages (incl. liquidated damages) according to clauses 2.2, 2.3, 2.4 and 11.4 may be set off against any payment to the Supplier.

7.2. Any prepayment is subject to the Supplier providing an irrevocable guarantee payable on demand in a reputable bank or insurance company on terms acceptable to SRD.

## **8. Subcontract**

8.1. If a Supplier himself does not manufacture the delivery or substantial parts thereof, the name of the manufacturer must be stated at order confirmation and must be approved by SRD prior to commencement of the production of the delivery in question, and measures must be taken to ensure SRD or its customer access to undertaking quality control during production, cf. clause 3. If the Supplier fails to comply herewith SRD may terminate the agreement and claim damages and invoke any and all other remedies for breach being available to SRD.  
The Supplier shall be fully liable for the correct performance of the delivery.

## **9. Secrecy**

9.1. The Supplier shall not pass on information on technical data, prices or similar concerning the order nor otherwise pass on information or knowledge acquired from SRD - neither publicly nor to any third party - nor permit any third party, acting on its behalf, to do so.  
The Supplier shall not use SRD's logo, name or trade relation for advertising or reference purposes without in each such case to seek and obtain the prior written consent of SRD.

## **10. Warranty**

10.1. The Supplier warrants that the design is properly carried out, the good quality of the materials and the proper performance of the work; moreover, the Supplier warrants that the goods delivered are suitable, and have the right features for the purpose for which such goods are to be used.

10.2. If the delivery involves any specified performance, the Supplier's warranty shall also cover such performance.

10.3. The warranty shall be in force for at least 12 months from the time of approved handing-over of the total project to SRD's customer.

## **11. Liability for defects**

11.1. SRD shall notify the Supplier of any defects and/or errors as soon as possible.

11.2. Without delay and without any expense on the part of SRD, the Supplier shall remedy the defect and/or rectify the error, inclusive of replacing any parts of the delivery that do not meet the requirements according to specification and purchase orders. The Supplier shall defray all costs of such remedying, regardless of where the project may be located; however, the Supplier shall not cover costs of transportation in excess of such costs as would be relevant if the project had been located in Denmark. SRD will establish schedule for remedy of defect only considering SRD's project schedule.

11.3. If the Supplier does not remedy, repair, substitute and/or replace within the time fixed by SRD, SRD shall be entitled to have such remedy, repair, substitution and/or replacement undertaken by a party other than the Supplier, but at the expense of the Supplier. This also applies if the goods delivered are to be used by SRD immediately upon delivery. Moreover, instead of having such remedy, repair, substitution and/or replacement undertaken, SRD is entitled to terminate the contract by notifying the Supplier in writing.

11.4. SRD is entitled to claim damages for any direct loss inflicted on SRD as a result of defects and errors.

11.5. For any delivery which is partly or fully replaced or remedied according to clause 11.2 or 11.3, the above terms shall apply to all affected parts of the delivery for a new warranty period calculated from the time when remedy was made, cf. clause 10.3.

11.6. SRD may pass-on the Supplier's warranty to the benefit of SRD's customer, and the Supplier is thus obliged to assist SRD in any issues relating to the warranty and to assist SRD's customer until expiry of the warranty period.

## **12. Liability for damage/injury caused by the products delivered (product liability)**

12.1. If a third party raises a claim for damages against one of the parties, the party in question shall notify the other party hereof without undue delay. To the extent that - under Danish or foreign law - product liability may be imposed on SRD for any damage or injury caused by products supplied by the Supplier, the Supplier shall indemnify SRD for all claims and costs emerging therefrom, including any legal costs. The Supplier shall take out general liability insurance and product liability insurance policies with a coverage of at least DKK 5 mio. for each personal injury and at least DKK 5 mio. for each damage to property. At the request of SRD, the Supplier shall submit to SRD its insurance policy on product liability with information on the insurance sum(s).

12.2. In case court actions or arbitration proceedings are brought by third parties against either SHG or the Supplier for claims allegedly being caused by the products supplied pursuant to an agreement being subject to these Terms of Purchase and Delivery the one of them not being sued shall be obliged to enter as co-defendant before the same court or arbitration tribunal. However, the relationship between the Supplier and SRD shall always be adjudicated according to the substantive provisions and the stipulations on dispute resolution of these Terms of Purchase and Delivery.

## **13. Force majeure**

13.1. If performance is delayed as result of force majeure such as war, unrest, terrorism, natural disasters, fire, explosion, strike, lockout, boycott, intervention by public authority into lawful activities, the Supplier shall immediately notify SRD of the delay and the cause as well as of the estimated duration hereof and shall keep SRD informed of the situation. The Supplier shall take all necessary steps to reduce the effect of the force-majeure situation. The time for delivery shall be extended - provided that the Supplier has notified SRD as stipulated above - by the unavoidable delay; however, by no more than the duration of the force majeure situation. Force majeure at the Supplier's sub-suppliers of essential parts is to be treated as force majeure at the Supplier himself. Force majeure situations, whether existing or predictable when the order was placed, shall not justify any extension of time for delivery as described above.

13.2. If SRD is prevented from taking delivery of or installing the products ordered because of a force majeure situation as described above, SRD is entitled to demand extension of time for delivery as described above.

13.3. Notification according to such provisions shall take place by letter or by e-mail.

13.4. If the extension of time for delivery as a result of force majeure at SRD or the Supplier will substantially affect the progress of SRD's project, SRD shall be entitled to terminate the contract against payment of the Supplier's fully substantiated costs up to the time of termination.

## **14. Applicable law and disputes**

14.1. All disputes shall be settled according to Danish law disregarding any rules on renvoi, either by arbitration in Copenhagen, or before the Court in Odense in SRD's free choice. In the event of arbitration, the dispute shall be settled according to the rules of procedure of the Danish Institute of Arbitration. All members of the arbitration tribunal shall be appointed by the Danish Institute of Arbitration according to its rules of procedure. The Supplier shall continue to deliver regardless of any dispute between the parties.