

## **GENERAL SALES TERMS & CONDITIONS – NOHA NORWAY AS 2018 (revised June 2018)**

### **1 GENERAL**

The terms and conditions specified below constitute the entire agreement between NOHA NORWAY AS (NOHA) and the Buyer with respect to any sale of goods consummated pursuant to these terms and no other terms and conditions shall be of any force or effect. NOHA's acceptance of the Buyer's order is expressly conditioned upon acceptance by Buyer of these terms and conditions. Buyer will be deemed to have assented to all such terms and conditions if any part of the described goods is accepted. Any additional or different terms or conditions contained in Buyer's order or in any correspondence shall be deemed objected to by NOHA and shall be of no force or effect, unless Buyer and NOHA specifically agree in writing on terms and conditions different from those contained herein.

NOHA shall only be bound to Buyer when acceptance of an order is confirmed in writing by a duly authorized representative of NOHA with the powers to sign and accept.

### **2 SPECIFICATION OF DELIVERY**

The specification of the delivery is fixed by NOHA's order acknowledgement form. All relevant enclosures must be named in the order acknowledgement.

### **3 PRICE**

Unless otherwise specified, the purchase price given is in Norwegian Kroner, excluding value added tax (VAT) and is FCA NOHA warehouse (as defined by INCOTERMS 2010). In the event the delivery terms are anything other than FCA, Buyer shall pay to NOHA the amount of any and all applicable duties, or sales, use, excise, value added or similar taxes imposed upon NOHA on account of the sale or transportation of the goods delivered hereunder. Unless appropriate exemption certificates are furnished to NOHA, any such taxes will be added to the invoices as separate items.

The prices and information contained in NOHA' catalogues, leaflets and price lists are subject to change without notice and are in no way binding for NOHA. NOHA reserves the right to increase its prices to take account of variations in labor, materials, currency exchange rate, import surcharge, excise duty, air and ocean freight charges or other costs between the date of the purchase order, contract quotations or tenders and the date of delivery of the Goods and Services. Buyer shall pay any such increases in addition to the price stated in the Contract.

Unless otherwise agreed, if travel is necessary to carry out this Order, travel expenses will be paid by Buyer, according to standard travel terms set by the Norwegian government

#### **4 PAYMENT**

Unless otherwise accepted in writing by NOHA, payment shall be made:

- "Up front" for Norwegian customers
- By a confirmed and irrevocable letter of credit payable 21 days after the presentation of transport documents at a Norwegian bank for non-Norwegian customers.

In case of agreed credit terms the following provisions shall apply:

Payment for the Goods shall be in Norwegian kroner and made in full within 30 days of the invoice date for Norwegian customers.

Transfer of payments shall be made by SWIFT directly to the bank account designated by NOHA.

For customized products and installations, the payment terms shall be as follows:

- 60% of the Price upon ordering of the products to NOHA
- 40% of the Price upon final hand over of the product to Buyer

In case of late payment the following provisions shall apply.

The Buyer shall pay interest on any overdue payment at the set interest market rate (%) dictated by the Norwegian market, per late day from the day after payments where due, in addition there will be a reminder fee of NOK 75 per reminder.

Invoice in paper format send via mail is subject to an invoice fee of NOK 39 per invoice.

The debt recovery expenses shall be covered by the Buyer.

NOHA shall have the right to postpone any order acknowledgement or delivery until full payment of any due amount has been received.

#### **5 TITLE AND RISK**

Unless otherwise agreed, title to the Goods and risk of damage to or loss of all or any Goods shall pass to the Buyer upon the Goods being made available for collection from NOHA's premises (the anticipated date of which is stated on the relevant acknowledgement of order issued by the NOHA).

#### **6 VALIDITY**

Submitted offers are normally valid for 3 months, unless a different period is confirmed in writing. Only written order acknowledgement from NOHA is binding upon NOHA. Unless the Buyer makes an objection by fax or email within 24 hours of receipt of the order acknowledgement, he shall be bound by its contents.

## **7 TIME OF DELIVERY**

### Acknowledgement

- 7.1 Unless otherwise agreed, the delivery schedule shall commence on the later of the date of NOHA's written acknowledgement of order and the date NOHA receives all the information necessary to allow it to proceed without interruption, or if the Buyer requests any variation to the Contract, the date of NOHA's written acknowledgement of its agreement to such variation.
- 7.2 Although NOHA will endeavor to complete the Contract within any specified delivery time or by any specified delivery date, that time or date is an estimate only and NOHA shall not be liable howsoever for any reasonable delay in delivery.
- 7.3 Any delivery time specified shall (in any event) be extended by any period or periods equal to (i) the duration of Force Majeure Event during which the manufacture or delivery of Goods is delayed and (ii) a reasonable period of time to overcome technical difficulties connected with the manufacture or adaptation of the Goods to the Buyer's design or specification.
- 7.4 On NOHA's becoming aware that the delivery of any Goods will be delayed, it shall give notice to the Buyer of the estimated duration of such delay.
- 7.5 NOHA shall be entitled to withhold delivery of any Goods if at the time delivery is to be made payment is due by the Buyer to NOHA on any account whatsoever.
- 7.6 The delivery of a greater or lesser quantity of the Goods than the quantity ordered, of other Goods not ordered, or of Goods only some of which are defective, shall not entitle the Buyer to reject Goods that were ordered and are not defective.
- 7.7 If the Buyer fails to take delivery of the Goods in accordance with the Contract, NOHA may (without prejudice to its other rights against the Buyer) store the Goods at the sole risk and cost of the Buyer.
- 7.8 The Buyer shall inspect the Goods immediately on delivery thereof and shall within five (5) days from such delivery give notice in writing to NOHA of any matter or thing by reason thereof the Buyer may allege that the Goods are not in accordance with the Contract or are defective in material or workmanship. If the Buyer shall fail to give such notice the Goods shall be conclusively presumed to be in all respects in accordance with the Contract and free from any defect which would be apparent on reasonable examination of the Goods and the Buyer shall, as between the Buyer and NOHA, be deemed to have accepted the Goods accordingly.
- 7.9 NOHA reserves the right to make delivery by instalments and invoice and be paid for each instalment separately. Each instalment shall be deemed to constitute a separate agreement subject to the terms of the Contract and no failure of or delay in delivery of any instalment

nor shall any defect in the contents thereof entitle the Buyer to treat the Contract as repudiated with regard to any remaining instalments.

## **8 TERMS OF DELIVERY**

The goods are delivered in accordance with NOHA's practices unless specific packaging, labelling, marking or mean of transportation are ordered by the Buyer and accepted by NOHA.

Unless otherwise specified the goods are delivered FCA NOHA warehouse, Klepp Stasjon, Rogaland, Norway. Other terms of delivery must be specially agreed upon. If Ex-Works does not apply to the sale, the customer is responsible for informing NOHA if the delivery address differs from the invoice address. Any cost incurred due to lack of correct address information will be invoiced the buyer

## **9 CANCELLATION/CHANGE ORDER/ RETURN OF GOODS**

The Contract may be cancelled by the Buyer only with NOHA's written consent which, if given, shall be on the express condition that the Buyer shall pay to NOHA a cancellation charge. The cancellation charge commensurate with NOHA's costs incurred up to the date of cancellation (which in any case is at least 25% the contract price) plus NOHA's loss of profit or, at NOHA's option, a sum equal to the invoiced price.

Buyer may make changes within the general scope of the Order upon prior written consent of NOHA in any one or more of the following: a) drawings, designs or specifications; b) quality; c) quantity; or d) scope or schedule of goods and/or services. Buyer shall document such change request in writing, and NOHA shall not proceed to implement any change unless and until such change is provided in writing by Buyer. If any changes cause an increase or decrease in the cost of, or the time required for the performance of, any work under this Order, an equitable adjustment shall be made in the Order price or delivery schedule, or both, in writing.

All goods that NOHA is selling are subject to a "no return" policy.

## **10 INSPECTION AND TESTING**

- 10.1 All NOHA – produced equipment which is included in this contract, is manufactured in accordance with NOHA "Quality Assurance Handbook". This in turn meets the requirements of ISO 9001, EN671-1 and NS-EN671-3 CE markings on NOHA products confirms the products meet the requirements of EU-directives. "
- 10.2 Final inspection and any commissioning of delivered equipment occur in accordance with NOHA's internal guidelines or according to special agreement.
- 10.3 If classification certificates beyond those held are required for a special delivery, these will be invoiced at full cost to Buyer.



## **11 LIABILITY**

Notwithstanding anything to the contrary herein, and to the extent permitted by law, NOHA's liability for all damages is limited to (I) direct damages caused by NOHA's negligence or breach of contract (which excludes any consequential damages) and (ii) the total amount of this Order.

NOHA is not liable for any consequence and/or damage caused due to the misuse of the Product or failure to follow the product and/or installation instructions by the Buyer or any third party.

## **12 GUARANTEE/CLAIMS**

Unless otherwise agreed, NOHA warrants for a period of one (1) year from the delivery date (the "Warranty Period") that any products manufactured by it and supplied shall be free from defects in workmanship or material. During the Warranty Period, provided NOHA is promptly notified in writing upon the discovery of any defect in workmanship or material and further provided that all costs of returning the defective parts to NOHA are pre-paid by Buyer, NOHA agrees, at Buyer's sole option, to either repair or replace defective parts, or refund Buyer's fees paid for such parts. Buyer shall be responsible for all labor costs associated with dismantling, testing and/or reassembly. NOHA' engineering department shall be the party to determine the validity of all claims. Any equipment purchased by NOHA and passed to the Buyer shall be warranted pursuant to the period and conditions granted by the manufacturer. Any repair or replacement of parts under this warranty shall not grant Buyer an extension beyond the original warranty period by NOHA and/or manufacturer.

The foregoing remedies are the exclusive remedies for any breach of NOHA's products warranty. In no event shall NOHA have any obligation to make repairs, replacements or corrections required, in whole or in part, as the result of (I) normal wear and tear, (ii) accident, disaster or other event beyond the reasonable control or fault of NOHA, (iii) misuse, fault or negligence of or by Buyer, (iv) use of the products in a manner for which they were not designed, (v) deterioration or damage caused by lack of maintenance, oversight, operator error, overloading or (vi) use of the products in combination with equipment or software not supplied by NOHA. Any installation, maintenance, repair, service, relocation or alteration to or of, or other tampering with, the products performed by any person or entity other than NOHA without NOHA's prior written approval, or any use of replacement parts not supplied by NOHA, shall immediately void and cancel all warranties with respect to the affected products.

NOHA warrants that the services provided hereunder will be performed in accordance with generally accepted industry standards and practices by competent personnel. In the event that any services fail to comply with the foregoing standard upon notice within one (1) year from the date when services are completed, NOHA will, at its sole option, either re-perform the non-complying services at no additional charge or refund to Customer all fees paid by Customer for the non-complying portion of the services. These remedies being the exclusive remedies available to Customer for any breach of NOHA's services warranty.

**THE FOREGOING WARRANTIES ARE THE SOLE AND EXCLUSIVE WARRANTIES GIVEN BY NOHA IN CONNECTION WITH THE SERVICES PERFORMED AND PRODUCTS PROVIDED**



HEREUNDER, AND ARE IN LIEU OF ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY NOHA, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

### **13 INTELLECTUAL PROPERTY**

- 13.1 The Buyer acknowledges that any and all Intellectual Property Rights used or embodied in or in connection with the Goods or any parts thereof in which NOHA has an interest is and shall remain vested at all times in NOHA. The Buyer shall not at any time in any way question or dispute the ownership of any such rights.
- 13.2 The Buyer acknowledges that any and all Intellectual Property Rights created in the performance of, or as a result of the Contract (whether new or by way of development of an existing right) shall belong to NOHA unless otherwise agreed in writing.
- 13.3 The Buyer shall indemnify NOHA fully against all liabilities, costs and expenses which NOHA may incur as a result of work done in accordance with the Buyer's specifications (including specifications of third parties used at the request of the Buyer) which infringe any Intellectual Property Right of any third party.

### **14 TRADEMARKS AND TRADE NAMES**

Buyer acknowledges that all brand names, logos and trademarks incorporated onto or associated with the NOHA product (collectively, the Marks) purchased hereunder and the NOHA trade name are and remain the exclusive property of NOHA. Buyer understands that Buyer does not acquire any rights in any of the Marks or trade names by purchasing the products hereunder. Buyer will not: (a) attach any additional trademarks or trade names to the products provided by NOHA or (b) remove alter or overprint any of the Marks or trade names. Buyer shall not make any use of the Marks at any time except as otherwise authorized in writing by NOHA.

### **15 PROPRIETARY INFORMATION/NONDISCLOSURE**

Buyer acknowledges that any knowledge or information, including concepts, prototypes, designs, drawings, methods, code, and data, which NOHA may have disclosed or may hereafter disclose to the Buyer incident to the placing and filling of this order, shall, at all times, remain the exclusive property of NOHA and Buyer shall acquire no interest in, or right with respect to, such proprietary information. Buyer further acknowledges that such proprietary information constitutes valuable, special and unique business assets of NOHA and Buyer will not now or at any time in the future use any such information in any manner or disclose any such information to any person or entity, except as expressly permitted in writing by NOHA.

## **16 FORCE MAJEURE**

NOHA shall not be liable for any delays in delivery, or for non-delivery or non-performance, in whole or in part, caused by the occurrence of any contingency beyond the control of either NOHA or suppliers of NOHA, including but not limited to one or more of the following causes: fires, destruction of plant; strike; lockout; dispute with workmen; epidemic; flood; accident; delay in transportation; war (whether declared or undeclared); insurrection; riot; blockage; embargo; acts, demands or requirements of the country in which or through which delivery is to be made or any state or territory thereof, or of any governmental subdivision of any thereof; restraining orders for decrees of any court or judge; or any other cause whatsoever, whether similar or dissimilar to those herein before enumerated. The existence of any such cause or causes of delay shall extend the time of performance by the time or times measured by any such cause or causes of delay.

## **17 INVOICING**

- 17.1 NOHA offers invoices sent by paper, e-mail or electronically through EHF.  
All invoices are sent default by paper unless anything else is agreed upon, and will be charged NOK 40,- per invoice.
- 17.2 All orders below NOK/SEK 750,- excl. freight will be charged with a handling fee of 500,-
- 17.3 NOHA will automatically invoice Buyer for pallets and other standard transportation material.

## **18 WAIVER**

- 18.1 Failure or delay by NOHA in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 18.2 Any waiver by NOHA of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

## **19 ASSIGNMENT**

- 19.1 NOHA may assign the Contract or any part of it to any person or company.
- 19.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of NOHA.

## **20 DISPUTES, APPLICABLE LAW**

These conditions and any related sales contracts shall be governed by the Norwegian law. Attempts should be made to settle amicably any disputes concerning this contract. If amicable



settlement does not succeed, the Stavanger Tingrett (court) shall have jurisdiction over any disputes arising there under.