



## Norsun standard sales terms

Rev 02 August 2018

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## **1 General**

- 1.1 These general terms and conditions for sale of Products from NorSun (General Terms) shall be applicable for any sale or similar transaction from NorSun referring to General Terms, General Terms and Conditions, General Conditions or to a term with similar meaning. The General Terms are intended to be applied together with a purchase order or Specific Terms (hereinafter jointly referred to as Specific Terms) for each relevant transaction agreed upon between the Parties. In case of contradiction between these General Terms and Specific Terms agreed upon between the Parties, the Specific Terms shall prevail. These General Terms shall together with the Specific Terms, including all relevant attachments, form a binding agreement (the Agreement) between NorSun and the buyer (Buyer).
- 1.2 Any reference made to trade terms (such as EXW, FCA, etc.) is deemed to be made to the relevant term of Incoterms 2010 published by the International Chamber of Commerce.
- 1.3 No modification to the Agreement is valid unless agreed or evidenced in writing.

## **2 Products**

- 2.1 Information relating to the products to be supplied by NorSun under the Agreement (Products), including but not limited to technical and other specifications, shall only be deemed a part of the Agreement if such specifications are explicitly identified as such.
- 2.2 The Buyer shall not acquire any intellectual property rights to software, drawings, etc related to the Products, which may have been made available to him. All such rights shall unless otherwise agreed, remain with NorSun.

## **3 Inspection before shipment**

- 3.1 In the event that the Buyer, on NorSun's sole discretion, is invited to inspect the Products before shipment, then such inspection shall take place no later than 10 working days following NorSun's notification to Buyer that the Products is ready for shipment. Such inspection shall if not otherwise agreed be performed at NorSun's plant.

## **4 Price**

- 4.1 The price shall be as set forth in the Specific Terms (Price) and shall be fixed

and not subject to price adjustments, provided however that in the event that supplies under the agreement continuing more than 6 months the Price can be adjusted to reflect increased cost of manufacturing and/or changes in the relevant cost and price index, such index to be determined by NorSun.

- 4.2 Unless otherwise agreed in writing, the Price does not include VAT or other fees or taxes.
- 4.3 The Price shall include any costs which are at NorSun's charge according to the Agreement. However, should NorSun bear any costs which, according to this Agreement, are for the Buyer's account (e.g. for transportation or insurance under EXW or FCA terms), such costs shall not be considered included in the Price and shall be reimbursed separately by the Buyer.

## **5 Payment**

- 5.1 Unless otherwise agreed, payment of the Price and of any other amount due to NorSun, shall be made prior to shipment of the Products.
- 5.2 Buyer shall not be permitted to make any deductions, setoffs, counterclaims or similar withholdings in any payment due to NorSun under the Agreement.
- 5.3 To the extent the Parties have agreed that Buyers payment obligations shall be securitized by an advanced payment, bank guarantee or similar security, the Buyer shall no later than 30 days prior to the agreed date of delivery or the earliest date within the agreed delivery period, provide to NorSun the relevant advanced payment or as the case may be a first demand bank guarantee or a standby letter of credit in a form acceptable NorSun, issued by a reputable international bank.

## **6 Delayed payment**

- 6.1 If Buyer fails to make a payment by the relevant due date, Buyer shall pay to NorSun interest on overdue payment in accordance with the Norwegian act relating to overdue payments, for the period starting on the date the payment became due and ending on the date when the overdue payment has been settled in full.
- 6.2 In the event that any payment from Buyer is delayed with more than 14 days, then NorSun shall have the right, at its sole discretion, either to cease all further supplies until payment has been made in full or immediately terminate the Agreement. Such delayed payment shall be deemed a Material Breach, as set forth in Section 16.

## **7 Sales lien**

- 7.1 NorSun shall have a sales lien (salgs pant) the Products until Buyer has paid all outstanding amounts related to sale of the Product.

## **8 Delivery**

- 8.1 Unless otherwise agreed, delivery shall be "Ex Works" (EXW), Incoterms 2010, Årdal, Norway. Delivery shall be made in accordance with the delivery schedule (Delivery Schedule) set forth in the Specific Terms or otherwise agreed among the Parties. In the event that the no delivery Schedule has been determined delivery shall be made no later than 30 days following execution of the Agreement.
- 8.2 Buyer shall be liable for any extra cost, including but not limited to extra shipping and storage cost, incurred as a result of delayed pick up of Products.

## **9 Documents**

- 9.1 Unless otherwise agreed, NorSun shall provide to Buyer all documents (if any) indicated in the Specific Terms, in the applicable Incoterms rule or according to any previous course of dealing between the Parties or relevant industry standard.

## **10 Delay**

- 10.1 Any failure or delay to meet the Delivery Schedule not caused by Buyer or Force Majeure shall be deemed a delay (Delay). In the event of Delay, Buyer shall be entitled to liquidated damages in the amount equal to 0,5% of the Price of the delayed Products for each week of Delay, however no more than maximum 3% of the aggregate Price of the delayed Products.
- 10.2 Payment of liquidated damages in accordance with this section 10 shall exclude all other remedies for delay or failure to deliver Products under the Agreement.

## **11 Non-conforming Products**

- 11.1 Buyer shall without undue delay following Delivery examine the Products and notify NorSun of any non-conformity (Non-Conforming Products). In the event that Buyer has not notified NorSun of Non-Conforming Products within 30 days from Delivery, the Products shall be deemed accepted and Buyer shall have forfeited all claims for Non-Conforming Products.
- 11.2 Upon the return of Non-Conforming Products from Buyer NorSun shall, at its

sole discretion and without undue delay, either:

- a) replace the Non-Conforming Products with conforming Products, without any additional expense to the Buyer, or
- b) reimburse to the Buyer the price paid for the non-conforming Products and the cost for return of the Non-Conforming Products.

11.3 Unless otherwise agreed in writing the Buyer shall have no other remedies for Non-Conforming Products than set forth in this section 11.

## **12 Warranty**

12.1 NorSun makes no other warranties than explicitly set forth in the Agreement.

## **13 Limitation of liability**

13.1 Notwithstanding any provisions to the contrary and subject only to acts of gross negligence or willful misconduct, neither Party shall be liable to the other for indirect or consequential losses.

## **14 Force Majeure**

14.1 Neither Party shall be responsible for any Delay or failure to carry out his duties under the Agreement if such a Delay or failure is the result of Force Majeure.

14.2 In the event of Delay caused by Force Majeure an extension of relevant milestone equal to the duration of the Force Majeure situation shall be granted.

14.3 The following events shall be considered Force Majeure provided that it prevents apart from performing its duties under the Agreement: war, riot, and disputes between labor market organizations concerning the party, fire, earthquake and acts of God or any other occurrence designated Force Majeure by a court of law or arbitrator appointed in accordance with Section 17 below.

14.4 A Party prevented from performing under the Agreement due to Force Majeure shall inform the other Party without undue delay and no later than five (5) days following the date when the Force Majeure event occurred. The Party shall also keep the other Party updated on when the Force Majeure event is expected to end and what measures can be implemented to prevent negative consequences of the Force Majeure event.

## **15 Confidentiality**

15.1 The Parties acknowledge and agree that the terms of the Agreement and certain information exchanged between them pertaining to the Agreement constitute "Confidential Information" of the Party disclosing the information.

The purpose of the exchange of the Confidential Information is to allow the Parties to meet their obligations and responsibilities under the Agreement. During the term of the Agreement, and for a period of 5 years following its termination or expiration, except as required by applicable law, regulation or rules of any securities exchange, the Party receiving any Confidential Information, and its employees, attorneys, financial advisors, officers, directors who shall receive such Confidential Information shall not, except with the prior written consent of the disclosing Party, use, divulge, disclose or communicate, to any person, firm, corporation or entity, in any manner whatsoever, the terms of the Agreement or any Confidential Information of the disclosing Party; provided, however, that each Party may use, divulge, disclose or communicate the terms of the Agreement or Confidential Information of the disclosing Party to wholly-owned or majority owned subsidiaries if such subsidiaries undertake to keep such information strictly confidential in accordance with this Section 15 and each subsidiary has a “need to know”. The Parties will be liable for any breach of this Section 15 by any of their respective wholly-owned or majority owned subsidiaries. Each Party further agrees to use the same degree of care to avoid publication or dissemination of the Confidential Information disclosed to such Party under the Agreement as it employs with respect to its own Confidential Information, but at all times shall use at least reasonable care to protect against disclosure.

- 15.2 Confidential Information does not and shall not include information that:
- a) was already known to the receiving Party at the time such information is disclosed by the other Party;
  - b) was or became publicly known through no wrongful act of the receiving Party;
  - c) was rightfully received from a third party without restriction;
  - d) was independently developed by the receiving Party;
  - e) was approved for release by written authorization of the Party disclosing such information under the Agreement; or
  - f) was required by legal or financial reporting purposes to be disclosed; provided, however, that the Party being required to disclose shall, if circumstances permit, provide advanced notice to the other Party.

## **16 Term and termination**

- 16.1 The term of the Agreement shall if not otherwise agreed be for the period commencing on the date when the Specific Terms are executed and ending on

the date when the transaction is consummated as set forth herein (Term).

- 16.2 Notwithstanding section 16.1 the Agreement can be terminated:
  - 16.3 By NorSun for convenience subject to a 14 days written notice at, provided that if NorSun terminates before the transaction is fully consummated Buyer shall be entitled to a reasonable termination fee not exceeding 10% of the aggregate Price for the Products not delivered at the time of termination.
  - 16.4 By each Part in the event of material breach by the other Party (other than a material breach triggered by a Force Majeure), provided that (a) the non-breaching Party submits a written notice of breach to the breaching Party, and (b) the breaching Party fails to cure such breach within 7 days following receipt of the said notice.
  - 16.5 By each Part if the other Party becomes insolvent, is adjudged bankrupt or becomes the subject of dissolution, liquidation or bankruptcy proceedings, whether voluntarily or involuntarily, or applies for judicial settlement with its creditors or makes an assignment for the benefit of creditors.
  - 16.6 All sections of the Agreement that due to its content or nature shall survive termination shall remain in full force and effect also after termination.
- 17 Applicable law and settlement of disputes**
- 17.1 The Parties hereto agree that the Agreement shall be governed by and construed in accordance with the laws of Norway.
  - 17.2 Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be finally settled by arbitration in accordance with the Norwegian arbitration act. The arbitration court shall consist of three arbitrators selected according to the arbitration rules mentioned above. The arbitration shall be conducted in Oslo, Norway.