

# FLEXTRACK GENERAL PROCUREMENT TERMS

## 1. GOVERNING CONDITIONS

- 1.1 The legal relations between Flextrack Aps (Org.no. 19 67 05 46), Esbjerg, Denmark (hereinafter referred to as “Flextrack”) and Flextrack’s affiliates and holding company (hereinafter referred to as “Flextrack Affiliates”) on the one hand and the Supplier on the other hand (hereinafter collectively referred to as the “Parties”) shall be governed by these General Procurement Terms (hereinafter referred to as the “Terms”) and any specific agreements entered into in writing by the Parties. Amendments, additions and collateral agreements to these Terms must be in writing. Other general terms and conditions shall not be applicable, even if they were not explicitly rejected in any individual case. In the event of any inconsistencies between these Terms and any other agreement between the Parties, these Terms shall prevail.
- 1.2 These Terms apply to the supply of all goods and services by the Supplier.
- 1.3 These Terms are binding upon the Supplier’s acceptance. The Supplier is deemed to have accepted these Terms when:
  - A. a purchase order is accepted;
  - B. the Supplier commences supplying the goods or services which are the subject of a purchase order;or
  - C. the Supplier accepts payment for a purchase order, whichever comes first. These Terms are binding regardless of whether they are signed or not.

## 2. THE SUPPLIER’S SUPPLY

- 2.1 The Supplier shall remain competitive in terms of price, quality, ability to innovate and ensure security and timeliness of its supply to Flextrack.
- 2.2 The Supplier shall not increase the price agreed during a delivery period.
- 2.3 The Supplier shall take all necessary actions to be able to produce and supply as contemplated by the contract.

## 3. PAYMENT, INVOICE AND DELIVERY NOTE

- 3.1 Payment is to be made by bank transfer.
- 3.2 In the case of early delivery, payment will be made according to the agreed delivery date.
- 3.3 In the event of defective delivery, Flextrack shall be entitled to withhold payment pro rata to the value of the defective delivery until the order has been properly fulfilled.

- 3.4 Without Flextrack's prior written consent, which shall not be unreasonably withheld, the Supplier shall not be entitled to assign its receivables against Flextrack to third parties or to allow such receivables to be collected by third parties. In the event of any such assignment, Flextrack may choose whether to make payment to the Supplier or to the third party; either alternative shall have the effect of discharging the debt.
- 3.5 The invoice must comply with the statutory requirements. In particular, it must show the VAT registration number or tax number reference, the date of delivery of the goods or services, and the quantity and nature of the goods invoiced, and is to be sent in a single copy to the plant to which the delivery was made. The Supplier number, delivery note number, number and date of the order (or of the purchasing order), additional purchaser information (costing code), and unloading point must also be specified in the invoice. A separate invoice must be issued for each delivery note. Standard delivery notes are to be used for all deliveries.

#### **4. NOTIFICATION OF DEFECTS**

- 4.1 Flextrack shall notify the Supplier of defects in writing without undue delay following their discovery and confirmation within the ordinary course of business.
- 4.2 Provided Flextrack complies with the provision in Clause 4.1, the Supplier waives its right to object to the notification of defects on the grounds of delay.

#### **5. CONFIDENTIALITY, USE OF RESULTS**

- 5.1 The Parties undertake to treat as business secrets all commercial and technical details that become known to them in the course of the business relationship and that are not already in the public domain. Sub-suppliers of the Supplier shall be required to give an equivalent undertaking.
- 5.2 In so far as Flextrack remunerates the Supplier for development work in the form of a one-time payment, allocation to piece price or by other means, the Supplier hereby grants Flextrack a non-exclusive, irrevocable, transferrable right, unlimited in terms of time, place and content, to use copyright-protected results arising in connection with the development work and delivery to Flextrack (including, but not limited to, designs, drawings, sketches, layouts, blueprints plans, design data, information) in any way, free of charge, and to amend, edit and disseminate them.
- 5.3 Models, matrices, templates, patterns, drawings, sketches, tools, and other manufacturing devices as well as confidential information and design data provided to the Supplier by Flextrack or paid for by Flextrack, may be used for supplies to third parties only with Flextrack's prior written consent.
- 5.4 The Parties may use the business relationship for advertising purposes only with prior written consent.

#### **6. DELIVERY, DELIVERY DATES AND PERIODS**

- 6.1 Deliveries are governed by and subject to Incoterms 2020 DPU (Flextrack's registered place of business, unless otherwise specified in writing).
- 6.2 Agreed delivery dates and delivery periods are binding. Flextrack registered place of business shall be authoritative for compliance with the delivery date or delivery period.

## 7. DELAYS

- 7.1 Any delays in the supply must be promptly remedied. The Supplier is obliged to compensate Flextrack for any and all loss caused by delay in the supply.

## 8. QUALITY, DOCUMENTATION AND SECURITY

- 8.1 The Supplier must comply with the generally accepted technical standards, the safety regulations and the agreed technical specifications for the goods and services it supplies. Goods supplied to Flextrack must be safe to use. Changes to the goods or services to be delivered require Flextrack's prior written consent. The Supplier must continuously monitor the quality of the goods and services delivered and inform Flextrack of any possibility for improving quality.
- 8.2 The Supplier must state in its quality records for all products when, how and by whom checks were carried out to ensure the defect-free manufacture of the supplies. These records must be kept for 10 years and presented to Flextrack upon request. The Supplier is entitled to reduce the retention period for documentation if it is able to exclude the possibility of risk to life and health in the use of its products. The Supplier shall obtain the same undertaking from any sub-suppliers.
- 8.3 The Supplier is obliged to provide protection from third party access to goods, objects or other material things which are by order of Flextrack produced, on stock, stored, handled, processed, installed, loaded, forwarded, taken over, or otherwise under the Supplier's control. The Supplier warrants that the personnel assigned for the production, warehousing, storage, handling, processing, installation, loading, forwarding, taking over, or otherwise having under their control the goods, objects or other material things, is reliable. Sub-suppliers of the Supplier must be informed that they also have to implement measures to secure the supply chain.

## 9. WARRANTY CLAIMS

- 9.1 If defective goods or services are supplied, Flextrack or any of Flextrack Affiliates is entitled in accordance with these Terms to claim the following:
- A. Before the start of production (processing or installation) Flextrack or any of Flextrack Affiliates shall first give the Supplier the opportunity to separate out defective goods as well as to rework or replace them unless this would be unreasonable for Flextrack or Flextrack Affiliates. In such a case, for example, because of Flextrack's need to ensure uninterrupted production, or to minimise its loss, Flextrack may carry out the rework itself or have it carried out by a third party. Any costs as a result shall be borne by the Supplier. Flextrack shall inform the Supplier of the rework to the extent it is reasonable.
- B. In the event that the defect is not discovered until after production has started, Flextrack or any of Flextrack Affiliates is entitled to claim subsequent performance and compensation for expenses necessarily incurred in connection with subsequent performance, in particular transport and trip costs, labour costs (including, but not limited to, inspection, sorting, dismantling and installation costs) and costs for material.

The costs and expenses referred to in this Clause 9.1 must also be reimbursed by the Supplier if they are incurred even though the defective parts did not have to be replaced (for example, but without limitation, installation of new or properly software or firmware).

- 9.2 The warranty expires at the end of 36 months after delivery to Flextrack. The warranty applies to all goods and services provided by the Supplier, including replacement parts.

- 9.3 The provisions of this Clause 9 shall not prejudice Flextrack's or Flextrack Affiliates' other statutory or contractual rights.

## **10. LIABILITY AND INDEMNITY**

- 10.1 The Supplier shall indemnify Flextrack or Flextrack Affiliates for all direct and indirect losses, costs, expenses, liabilities, claims and damages (including, without limitation, reasonable legal fees and expenses, consequential damages and lost profits) in connection with the goods or services provided by the Supplier.
- 10.2 Any liability shall be excluded to the extent Flextrack has effectively limited its liability in relation to its own customer.
- 10.3 The Supplier shall be liable for compensation with regard to actions which Flextrack or any of Flextrack's Affiliates undertakes to avoid any damage (for instance, but without limitation, recall actions service measures or other field actions), in so far as such action results from the defectiveness of goods or services supplied by the Supplier or other breach of duty by the Supplier.
- 10.4 The provisions of this Clause 10 shall not prejudice Flextrack's or Flextrack Affiliates' other statutory or contractual rights.

## **11. Intellectual Property Rights**

- 11.1 The Supplier shall be liable to and indemnify Flextrack and Flextrack's Affiliates for all direct and indirect losses, costs, expenses, liabilities, claims and damages (including, without limitation, reasonable legal fees and expenses, consequential damages and lost profits) relating to the infringement of or alleged infringement of intellectual property rights, either granted or applied for (hereinafter "IP Rights"), arising out of or in connection with the use of goods supplied by the Supplier.
- 11.2 The Supplier shall inform Flextrack about the use of any published or unpublished IP Rights relating to the goods to be supplied to Flextrack.

## **12. TERMINATION OF CONTRACT**

- 12.1 In the event of termination of the contract, Flextrack and Flextrack's Affiliates are entitled to pass on all information arising from the terminated business relationship which is required by third parties to manufacture the items referred to in this supply agreement in order to cover Flextrack's needs.

## **13. INSURANCE**

- 13.1 The Supplier is obliged to take out appropriate insurance in respect of its obligations. Upon request, it must provide Flextrack with evidence of the insurance cover.

## **14. GENERAL PROVISIONS & COMPLIANCE**

- 14.1 The Supplier shall comply with all applicable laws in connection with all commercial dealings with Flextrack. Without prejudice to the foregoing, the Supplier is obligated to desist from all practices which may lead to penal liability due to fraud or embezzlement, insolvency crimes, crimes in violation of competition, bribery or other corruption crimes.

- 14.2 In the event of violation of Clause 14.1, Flextrack has a right to immediately withdraw from or terminate all legal transactions existing with the Supplier, to cancel all negotiations and to be indemnified for all direct and indirect losses, costs, expenses, liabilities, claims and damages (including, without limitation, reasonable legal fees and expenses, consequential damages and lost profits) in connection with any such violation by the Supplier.
- 14.3 The Supplier must comply with all technical regulations which apply to the Supplier's goods and services. The Supplier has to establish adequate systems within its organisation to ensure the adherence to all applicable technical regulations.
- 14.4 In the event of insolvency or administration proceedings against one party, the other party shall be entitled to rescind the part of the contract that has not been performed.
- 14.5 The Supplier warrants that:
- A. No exploitative child labour is or was involved in producing or processing the products and services to be delivered.
  - B. The Supplier will not employ anyone against their will or force them to work.
  - C. Its workers will be able to communicate openly with management regarding working conditions without fear of reprisals of any type. Its workers shall have the right, but not the duty, to associate freely, join labour unions, seek representation and join works' councils.
  - D. Harassment and discrimination against its employees will not be allowed.
  - E. It ensures occupational health and safety in keeping with domestic standards.
  - F. It takes due care of the human rights on its company, particularly where potential negative effects on human rights are to be feared in the supply chain.
  - G. It will ensure a high degree of environmental protection and ensure the promotion of greater environmental responsibility in its supply chain.

The Supplier will place its sub-suppliers under corresponding obligations.

- 14.6 Should any provision of these Terms or any other stipulations agreed between the Parties be or become invalid, this shall not affect the validity of the remainder of these conditions.
- 14.7 The courts of Esbjerg, Denmark, shall have exclusive jurisdiction with respect to all disputes arising from or in connection with this contractual relationship. The laws of Denmark shall apply.