

GENERAL TERMS OF PURCHASE

1. General Provisions

- 1.1. Subject to clauses 1.7 and 1.8, these General Terms of Purchase ("Terms") shall apply to contracts between the supplier ("Supplier") and Simatek ("Simatek") regarding purchase of (i) services, including software services ("Services"); and (ii) products ("Products").
- 1.2. The purchase of Products and Services shall individually and collectively be referred to as purchases ("Purchases").
- 1.3. The Purchases shall be specified and described in detail in the respective contract ("Contracts"). Any contract incorporates the Terms.
- 1.4. The Terms apply irrespective of Supplier's terms of sale and delivery, unless otherwise specifically approved by Simatek in writing.
- 1.5. In case of conflict between the Terms and the Contract, the Contract shall prevail.
- 1.6. Notices under the Terms must be in writing to be valid.
- 1.7. Clauses 1 through 13 apply to all Purchases.
- 1.8. Clause 14 through 22 applies solely to Products, and clauses 23 through 25 apply solely to Services.
- 1.9. As the Terms govern provision of Purchases covering both Products and/or Services, the Terms must be interpreted to cater for the Purchases in the Contract (i.e. Products and/or Services) to the widest extent possible.

2. Offers and Orders

- 2.1. An order confirmation shall be submitted to Simatek's e-mail address: purchase@simatek.dk no later than 3 working days within close-of-business from receipt of Simatek's purchase order.
- 2.2. The Supplier is required to inform promptly if it is unable to meet the conditions of the purchase order, however no later than 3 working days from receipt of the purchase order.
- 2.3. Simatek shall be bound solely by order confirmations which are issued in accordance with Simatek's purchase orders. Any deviation from the purchase order must be marked clearly or stressed separately, in writing. Simatek is bound only by written acceptance of such deviations.
- 2.4. Simatek can until the Suppliers issuance of an order confirmation, cf. clause 2.3 revoke a purchase order.
- 2.5. In the absence of a separate Contract, Simatek's purchase order and Suppliers order confirmation collectively form the Contract.
- 2.6. All written communication regarding purchase orders shall as a minimum state purchase order number, position number and/or project number and contact persons of both parties.
- 2.7. If reference is made to the Terms in Simatek's order, e.g. by way of a link, the Terms shall apply to the Contract, once the Contract has been concluded.

3. Suppliers information

- 3.1. Information provided by Supplier regarding the application, weight, dimensions, capacity and technical data in catalogues, brochures, prospectuses, advertisements, etc. to which reference is made in the order, shall be binding on the Supplier and shall be regarded as guaranteed.

4. Prices and Terms of Payment

- 4.1. The total price for the Purchase: (i) is stated in the Contract; (ii) shall be invoiced as stated in the Contract; and (iii) is exclusive of VAT.
- 4.2. All invoices shall be forwarded by email to invoice@simatek.dk upon delivery of the Purchase.
- 4.3. The price is fixed and cannot be adjusted.
- 4.4. Supplier may invoice the price for the Purchase after delivery and/or performance of the Purchase.
- 4.5. An invoice falls due at the end of the current month plus 60 days.
- 4.6. If Supplier owes Simatek an amount, Simatek may set-off this amount against an amount invoiced by Supplier.
- 4.7. Payment in advance, on account payment, handling fee, fee for packing material and/or packing in general must be agreed in writing prior to submission of the purchase order by Simatek and shall otherwise not be accepted by Simatek.

5. Variation

- 5.1. "Variation" means change, addition, deletion, or other modification to the Purchase and/or the agreed delivery date, which is requested as a variation under this clause 5.
- 5.2. Simatek may request a Variation before Supplier has delivered the Purchase by issuing a Variation request to Supplier stating the details of a proposed Variation.
- 5.3. If Simatek issues a Variation request, Supplier shall within 5 days submit an estimate to Simatek. Simatek may require Supplier's submission of an estimate before issuing a Variation request. The estimate must contain: (i) a description of the requested Variation; (ii) a schedule for the execution of the Variation, including the required resources; (iii) Supplier's proposed

adjustment (if any) to the price for the Purchases affected by the requested Variation to effect the Variation; and (iv) the effect of the Variation on the agreed delivery date (if any).

- 5.4. After receipt of Supplier's estimate, Simatek shall: (i) approve the Variation by instructing Supplier in writing to proceed with the Variation in accordance with the estimate; or (ii) reject the estimate by instructing Supplier in writing not to proceed with the Variation.
- 5.5. Supplier shall not delay, suspend, nor postpone the performance of relevant Contract whilst awaiting Simatek's response in accordance with clause 5.4.

6. Delivery and Delay

- 6.1. Only delivery on the agreed date and place of delivery is considered timely delivery. Any delay in delivery, even if only a small part of the Purchase is delayed, is considered a material breach of the Contract.
- 6.2. In any case, Supplier shall immediately notify Simatek of a delay or expected delay in delivery.
- 6.3. In any case of delay, Simatek shall have the option of cancelling or maintaining the Contract. If the Contract is maintained, the purchase price shall be reduced by 4 percent per commenced week of delay, however maximum 20 percent of the aggregate purchase price, and shall in addition be entitled to cancel the Contract, wholly or in part, should the delay endure for more than 4 weeks.
- 6.4. Unless otherwise expressly agreed upon, Simatek shall – even if Simatek initially required the Contract to be maintained – preserve the right to cancel the Contract as long as the delay continues.
- 6.5. Additionally, Simatek shall be entitled to claim full compensation from the Supplier for any direct loss caused by the delay including any loss due to non-fulfilment of Simatek's delivery obligations towards Simatek's end customers ("Customers") and due to interruption of operation.
- 6.6. If delivery takes place earlier than required and Simatek maintains the Contract, the period of credit shall begin as of the initially agreed time of delivery.
- 6.7. Delivery does not constitute acceptance. Simatek shall ensure inspection of the Goods and or Services within a reasonable time after delivery of the entire order. Inspection does not constitute acceptance and does not in any way release the Supplier from his obligations ensuring from the Agreement. Based on the inspection the Goods and/or Services can either be Approved, Conditionally approved or Rejected. Rejection in no way implies postponement of the agreed Delivery Date. Acceptance does not discharge the Supplier from its liability for any visible or hidden defects, regardless of whether an inspection has been carried out or not.


7. Force Majeure

- 7.1. Force majeure shall mean any unforeseen and extraordinary event which is beyond the control of the parties or any foreseeable occurrence the consequences of which may not reasonably be avoided that arise after the acceptance of the order and which prevents performance of a party's obligations under the Contract, in whole or in part.
- 7.2. Force majeure events can be, but is not limited to any of following circumstances: fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts.
- 7.3. If a third party fails to meet the obligations it has accepted in relation to Supplier or fails to meet such obligations in good time or in an appropriate fashion, this shall not be deemed to be force majeure affecting the Supplier.
- 7.4. Force majeure shall cause the suspension of the obligations of Simatek and Supplier under the Contract for the duration of the delay caused by the event of force majeure and the period of performance shall be automatically extended without any penalty for an equal period.
- 7.5. Supplier shall notify Simatek of the occurrence of a case of force majeure immediately and shall inform Simatek of further developments. If Supplier fails to do so, Supplier loses the right to invoke the occurrence of force majeure, without prejudice to the conditions respectively laid down in clause 7.1.
- 7.6. Supplier shall make all reasonable efforts to eliminate or minimize the effects of the force majeure event.

8. Confidentiality

- 8.1. "Confidential Information" means commercial, financial, scientific, and technical data, know-how, methods of production, protected documents, drawings and other information, including information related to pricing and participation in tenders, disclosed by or on behalf of a party to the other party, including the contents of the Contract, irrespective of whether the information is: (i) disclosed orally, visually, or in writing (including electronic transfer and by one or another media); (ii) observed during visits to the facilities of the disclosing party; and/or (iii) identified or stamped as "confidential" or labelled with a comparable label; however, excluding information which: (a) at the time of its disclosure was already in the possession of the receiving party, provided that possession is not a result of a disclosure from a third party that was under an obligation to the disclosing party to keep the information confidential; (b) after the time of its disclosure is obtained by the receiving party from a third party that was not under an obligation to the disclosing party to keep the information confidential; (c) after the time of its disclosure has been independently developed by one or more individuals for or on behalf of the receiving party who have not had access to the information from the disclosing party; and/or (d) has become publicly available other than as a result of breach of the Contract.
- 8.2. Subject to clause 8.1, the receiving party shall: (i) not use or facilitate use of Confidential Information for another purpose than the purpose of the Contract; and (ii) not disclose Confidential Information to third parties.
- 8.3. Clause 8.2 shall not apply to Confidential Information which the receiving party is legally required to disclose in accordance with statutory mandatory legislation or by order of a public or governmental authority or a competent court, provided that the receiving party: (i) without undue delay after becoming aware of the requirement informs the disclosing party of the requirement in writing; and (ii) only discloses the Confidential Information which it is legally required to disclose.
- 8.4. All drawings and other technical documents provided by Simatek to the Supplier belongs to Simatek.
- 8.5. Simatek can demand that a separate non-disclosure agreement is signed.

9. Proprietary Right

- 9.1. The Supplier agrees not to use Simatek's products, trademarks and business identifiers, such as "Simatek", "Simatek A/S" or the logo , in their promotional activities, including but not limited to advertisement or endorsement on their webpage, social media (including LinkedIn) or any similar use online or in public, without i) explicit, prior written consent from Simatek and ii) adherence to any specific conditions or guidelines provided by Simatek in relation to said use. Breach of this clause 9 is considered a material breach.
- 9.2. In the event of a breach of Clause 9.1, the Supplier shall be liable to pay liquidated damages of 100,000 DKK per infringement. If the infringement is continuous, the Supplier shall pay 100,000 DKK for each commenced week of infringement. Payment of liquidated damages does not grant the right to continue the infringement.
- 9.3. Supplier warrants that the Products do not infringe any third-party rights, including intellectual property rights. Supplier is obligated to indemnify Simatek of any claim imposed upon Simatek by a third party for claimed infringement of patents, licenses, trademarks, copyright, know-how or other intellectual rights. If Simatek or Customers consequently suffer a loss, Simatek and/or Customers are entitled to full compensation for such losses.

10. Transfer of rights

- 10.1. Simatek may transfer its rights and obligations under the Contract to a third party. Suppliers transfer of rights under the Contract to a third party is subject to Simatek's prior express and written consent.

11. Validity and Amendments

- 11.1. If a part of a Contract is deemed wholly or partially invalid, it does not affect the validity of the other parts of the Contract.
- 11.2. No amendment to the Contract shall be valid unless it has been made in writing and signed by the parties. This also applies to an amendment to this clause 11.2.

12. Sub-suppliers

- 12.1. Supplier may freely subcontract its obligations under the Contract. However, if Supplier subcontracts one or more of its obligations under the Contract, Supplier will be liable for the sub-supplier's performance in the same way and to the same extent as for its own performance.

13. Governing law and dispute resolution

- 13.1. Prior to initiating litigation, the parties shall enter into good faith negotiations to resolve their dispute by escalating any dispute to a member of senior level management of each party with authority to settle the dispute. Such members of senior management shall meet within 10 business days of a written request from one party to the other. However, following any unsuccessful negotiations, either Party will be free to commence court proceedings.

- 13.2. Any dispute which cannot be settled by the parties by mutual consent shall be governed by and construed in accordance with Danish law.
- 13.3. At Simatek's sole discretion, the disputes must be settled by either (i) arbitration at the Danish Institute of Arbitration in Copenhagen in accordance with the rules adopted by the Danish Institute of Arbitration in force at the commencement of the arbitration proceedings or (ii) by the Maritime and Commercial Court of Copenhagen.
- 13.4. Proceedings shall be in Danish and/or English.
- 13.5. Irrespective of any dispute between the parties, Supplier is obligated to proceed the delivery.

TERMS GENERALLY APPLICABLE TO PRODUCTS

14. Delivery

- 14.1. If no other terms of delivery have been agreed upon in writing, all Products shall be delivered DAP (in accordance with the latest version of INCOTERMS applicable at the time of the Purchase).
- 14.2. Delivery has only taken place when all positions, materials, equipment, supplies, parts, spare parts, machines, instruments, hardware, documentation, services, etc. have been delivered to the address(es) as stipulated in the purchase order.
- 14.3. Simatek shall not accept: (i) early, partial, delayed, nor excess delivery of Products; nor (ii) delivered Products that: (a) are defective; (b) do not comply with the agreed packaging; or (c) are not accompanied by the relevant documentation or certificates (in each case or (i) or (ii) an "Incomplete Delivery").
- 14.4. In the event of an Incomplete Delivery, Simatek may terminate or maintain the Contract. In case of a partial delivery, Simatek may terminate the Contract with respect to the non-delivered part
- 14.5. If it is not possible to take delivery of the Products at the agreed time, Supplier shall provide storage of the Products up to 3 months at the Supplier's own account and risk.

15. Invoice, delivery note, and packing list

- 15.1. Invoice, delivery note, and packing list shall contain an exact description and specification of the parts and packages delivered, as well as purchase order number, position number and/or project number.
- 15.2. It shall be possible for Simatek to require a preliminary packing list with all necessary measurements for transportation purpose.

16. Marking

- 16.1. The Products shall be marked according to clause 16.2 and 16.3, however the marking shall as a minimum be in accordance with what is customary, relevant and proper for the Products concerned.
- 16.2. Tagging of Goods:
All items shall be tagged by Supplier in accordance with Simatek's instructions, provided the tagging instructions form part of the purchase order.
- 16.3. Shipping marks:
For identification of the items upon delivery, all packages, boxes, containers etc. shall prior to shipment be marked in accordance with the specifications of the purchase order.

17. Storage

- 17.1. Products that are Simatek's property which are to be stored at Supplier's premises, cf. clause 14.5, shall:
- be individualized according to Simatek's marking instructions.
 - be insured against fire, theft, and water damage. If the Supplier's own insurance does not cover in full, information shall immediately be given to Simatek.

18. Spare Parts

- 18.1. For Products such as machines, instruments, etc. Supplier is obligated to supply spare parts, or to provide equivalent sources of supply, for 10 years from the time of delivery.

19. Product Liability

- 19.1. Supplier shall be liable for damage to persons and/or property cause by the Products.
- 19.2. Supplier shall indemnify Simatek for any claim imposed on Simatek by a third party as a result of damage to persons and/or property caused by the Products. The Supplier is obligated to take out a valid and adequate product liability insurance to this effect, and such insurance coverage shall be presented at request.

20. Inspection

- 20.1. Simatek reserves the right to inspect the quality and quantity of the Products ordered (alone or together with Customers or consultants) at the premises of Supplier or sub-suppliers. Simatek's inspection of the Products does not relieve the Supplier from responsibility for the functionality of the Products delivered.

21. Defects

- 21.1. In case of defects, Simatek shall at its sole discretion be entitled to terminate the Contract and to return the delivered Products to Supplier at Supplier's expense and risk or to demand remedial action, including additional or replacement Products.
- 21.2. In addition to clause 21.1 Simatek has the right to claim a price reduction, if the Contract is not terminated, and to claim direct damages and/or losses. Simatek's payment of the Products does not imply a waiver of claims against Supplier in the event of defects.
- 21.3. Simatek is entitled to consider the entire delivery of Products as defective in the event that a part of the delivery is defective.
- 21.4. Simatek is not obligated to inspect the Products.

22. Warranty

- 22.1. Supplier warrants that the design and construction of the Products adhere to the highest standards, that the materials applied are of a high quality, that the execution is correct, and the suitability of the Products are fit for the specified purpose. Furthermore, Supplier warrants that all specified services, capacities, and/or characteristics of the delivered Products are covered by the warranty as specified in this clause 22. This applies in cases where Supplier has total or a partial responsibility for the design/construction and the construction drawings, calculations etc.
- 22.2. All Products shall have a minimum warranty period of 24 months, starting from the commissioning of the facility to which the Products are delivered, provided such commissioning deadline has been specified in the purchase order. If no commissioning deadline has been communicated to the Supplier, a 30-month warranty period shall commence upon the delivery of the entire purchase, cf. clause 14.2.
- 22.3. For construction materials, the warranty period is 5 years from handing over the construction work, however limited to 6 years from the delivery of the materials to Simatek. During the warranty period, the Supplier warrants that the Products supplied are functional and free from defects and deficiencies.

TERMS GENERALLY APPLICABLE TO SERVICES**23. Performance of the Services**

- 23.1. In performing the Services: (i) Supplier shall not make commitments or enter contracts on behalf of Simatek, unless otherwise agreed between the parties; (ii) Supplier shall structure, prioritise and perform the Services in accordance with the Contract, applicable laws, Customer requirements stated in the Contract, and the norms and standards which generally apply to the Services; (iii) Supplier represents that personnel performing the Services are competent, qualified, trained, and experienced in performing the Services; and (iv) if Supplier finds that performance of the Services requires the involvement of third-parties (e.g. sub-suppliers), Supplier shall ensure that these third-parties comply with this clause 23.1 (and Supplier shall be liable for the performance of these third-parties in the same way and to the same extent as for its own performance).

24. Wrongful or non-fulfilled performance of the Services

- 24.1. In case the Services has not been performed in accordance with clause 23.1, Simatek shall be entitled to claim full compensation for any direct loss caused by wrongful or non-fulfilled performance of Supplier, including any direct loss due to non-fulfilment of Simatek's delivery obligations to Customers and interruption of operation.
- 24.2. Simatek shall, in addition to full damages, be entitled to demand remedial action, including additional or reperformance of the Services, or to require a proportional reduction of the purchase price.
- 24.3. If Supplier has not performed the Services in accordance with clause 23.1 and: (i) this is not due to Simatek or a third part for whom Simatek is responsible; and (ii) Simatek has notified Supplier of this within 24 months after Supplier has completed the Services, the Supplier shall within 2 weeks remedy the Services to the extent required for the Services to be performed in accordance with clause 23.1.

25. Performance Liability

- 25.1. Supplier shall be liable for all damages to persons and/or property caused by Suppliers performance of the Services.