

STANDARD TERMS AND CONDITIONS OF PURCHASE



These Terms and Conditions apply to all Services Agreements for purchase of Products and/or Services and/or the hire of Equipment entered into by NOORDZEE HELIKOPTERS VLAANDEREN or any of its subsidiaries or related companies.

Attention is drawn in particular to clause 6, which contains warranties and indemnities in NHV's favour in certain circumstances.

1. Definitions In these Terms and Conditions, unless the context otherwise requires:

"NHV" means NOORDZEE HELIKOPTERS VLAANDEREN or any of its subsidiaries or related companies.

"NHV's Address" means Kalkaertstraat 101, 8400 Oostende, Belgium or the usual place of business of any subsidiary or related NHV company as set out in the Agreement or such other address as may be communicated by NHV from time to time.

"Completion Date" means the date specified in the Services Agreement or Purchase Order by which the Supplier will fully and satisfactorily complete the Service(s), and/or deliver the Equipment or the Products to the relevant address by the Delivery Date.

"Services Agreement" means the agreement between NHV and the Supplier, whereby the Supplier sells or supplies Products or Equipment or provides a Service to NHV, incorporating these Terms and Conditions.

"Delivery Date(s)" means the date or dates specified in the Purchase Order for the Supplier to deliver the Products or Equipment.

"Equipment" means the equipment, plant, machinery, tools, parts and accessories, including any instalment, part or combination of same, which NHV is to hire from the Supplier, and/ or the Supplier is to provide Services in respect of, in accordance with the Services Agreement.

"Hire Period" means the period from the time the Equipment is delivered by the Supplier to NHV until the time the Equipment is made available by NHV for collection by the Supplier at NHV's Address or other such address as may be agreed in Writing. "including" means without limitation.

"Losses" or "Claims" includes all actions, causes of action, claims, demands, proceedings, damages, awards, payments, debts, losses, costs, expenses (including legal or professional expenses), penalties, fines, compensation or other liabilities whether direct, indirect, consequential or otherwise including loss of profit, business, turnover or market share, and interest thereon.

"Party" means each of NHV and the Supplier and "Parties" shall be construed accordingly.

"Price" means the charge made by the Supplier for the provision of Services, sale of Products or hire of Equipment as further defined in the Services Agreement.

"Product(s)" means any goods, materials, equipment, machinery, products or articles of whatsoever nature, which the Supplier is to sell to NHV, or provide any Services in respect of, under the Services Agreement.

"Purchase Order" means the written instruction issued by NHV to the Supplier setting out the requirements of NHV for the purchase of Products and/or Services and/or the hire of Equipment.

"Quotation" means the Supplier's quotation for the provision of Services, sale of Products and/or hire of Equipment.

"Service(s)" means any services or work provided by the Supplier to NHV under the Services Agreement including the provision of any consultancy or advisory services, research or design services, or the service, maintenance, refurbishment or provision of qualified operators for the use or operation of the Products or Equipment.

"Supplier" means any person, firm, NHV, partnership, competent authority or other business entity engaged in supplying Services, hiring Equipment or providing Products to NHV under the Services Agreement. "Terms and Conditions" means the Terms and Conditions set out in this document and any other terms and conditions agreed pursuant to clause 2.1.

"Writing" means any form of written communication including electronic mail ("Email") where the parties have agreed either expressly or by a course of dealing to communicate by Email and have provided each other with correct Email addresses accordingly, save that any Email shall take effect only when received by the recipient.

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2. Application

2.1 All business conducted by the Supplier with NHV, including any Services Agreements, Purchase Orders, Quotations or pre- Services Agreemental negotiations, shall be subject to these Terms and Conditions to the exclusion of any and all other terms and conditions, including any standard or general terms and conditions of purchase, sale, hire or for services confirmed or referred to in any Quotation or acknowledgement from the Supplier, except where the Parties have identified or incorporated mutually agreed special conditions into a Purchase Order to modify, supplement or amend these Terms and Conditions ("Special Conditions"). Such Special Conditions shall apply equally with these Terms and Conditions but in the event of a conflict or any ambiguity between these Terms and Conditions and the Special Conditions, the Special Conditions shall prevail.

2.2 Any and all statements, warranties, representations, advice or recommendations made or given by NHV during negotiations prior to the conclusion of a Services Agreement are not binding unless incorporated into the Services Agreement in Writing and signed by both parties.

2.3 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.

2.4 If any provision of these Terms and Conditions is held by any competent court, tribunal or authority to be invalid or unenforceable in whole or in part the validity of the remainder of the provision and all other remaining provisions of these Terms and Conditions shall not be affected thereby.

2.5 A Services Agreement shall be formed when the Supplier accepts NHV's Purchase Order subject to these Terms and Conditions.

2.6 The Supplier will sell Products and/or hire Equipment and/or provide Services to NHV and NHV will pay the specified Price, in accordance with the Services Agreement.

3. Performance of Services Agreement

3.1 Unless otherwise agreed in Writing or specified in the Purchase Order, the place of performance of the Services Agreement, including any delivery of Products or Equipment or where any Services are to be provided, shall be NHV's Address. Unless otherwise agreed in Writing, it is the Supplier's obligation and risk to deliver any Products or Equipment the subject of the Services Agreement to NHV's Address or any other address NHV may nominate.

3.2 Where the Supplier agrees to sell Products or hire Equipment to NHV, it is the essence of the Services Agreement that the Supplier will deliver any Products or Equipment to the relevant address by the Delivery Date within normal office hours.

3.3 Where the Supplier agrees to provide a Service to NHV, it is the essence of the Services Agreement that the Supplier will complete the Service by the Completion Date.

3.4 The Supplier must notify NHV immediately of any circumstances whatsoever which might cause non-compliance with the Completion Date and/or the Delivery Date(s).

3.5 The Supplier shall provide NHV in good time with any instructions or other information required to enable NHV to accept performance of the Services and/or delivery of the Products or Equipment.

3.6 The Products or Equipment shall remain at the risk of the Supplier until delivery to NHV is complete (including any off-loading or stacking), when ownership, where applicable, of the Products or Equipment shall pass to NHV.

4. Price

4.1 The Price for the provision of Services, purchase of Products or hire of Equipment shall be that agreed between the parties and confirmed in Writing by NHV or specified in the Purchase Order.

4.2 Unless otherwise specified, the Price for any Services, Products or Equipment provided by the Supplier shall be inclusive of any and all costs, charges or taxes relating to storage, loading, carriage, unloading, delivery and insurance of any Products or Equipment or any licence fees, duties, local taxes or additional costs of such nature.

4.3 NHV shall not accept any variation of the Price or any additional charges from the Supplier unless agreed in Writing by NHV.

5. Invoicing and Payment

5.1 The Supplier will issue to NHV an invoice or invoices for the Price of any Services, Products or Equipment at the intervals agreed in the Services Agreement, or in the absence of such terms, following the Completion Date.

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5.2 Unless otherwise agreed, NHV will pay undisputed invoice(s) within sixty (60) days of receipt of the invoice.

5.3 NHV shall have the right to set-off (in law and or in equity), from any sums due to the Supplier, any sum which in NHV's opinion is due from the Supplier to NHV.

6. Warranties, Representations, Risk and Indemnities

6.1 The Supplier warrants and guarantees to NHV that the Products sold or Equipment supplied by the Supplier are of the best available design, of the best quality, material and workmanship, are without fault and conform in all respects with NHV's Purchase Order and any specification, drawing, requirement or other information provided to the Supplier.

6.2 NHV's rights under these Terms and Conditions are in addition to the statutory terms implied in favour of NHV by the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982, and any subsequent amending or relevant legislation.

6.3 NHV is entitled to rely on any statement, warranty, representation, advice and/or recommendation made by the Supplier during negotiations and/or after the date of the Services Agreement, and such statements, warranties, representations, advice and/or recommendations shall be deemed incorporated into the Services Agreement.

6.4 Where the Supplier is providing a Service to NHV, the Supplier agrees to exercise utmost care and skill in doing so and in accordance with any applicable industry standards.

6.5 Prior to delivery of any Products or Equipment by the Supplier, NHV shall have the right if it so wishes to inspect and test the Products or Equipment at all times, and if the results of such inspection or testing cause NHV to consider that the Products or Equipment do not, or are unlikely to, conform with the Purchase Order and/or any specification, drawing or information provided to the Supplier, NHV shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure conformity.

6.6 Where the Supplier is not the manufacturer of the Products or Equipment, the Supplier will transfer to NHV the benefit of any warranty or guarantee given to the Supplier in respect of such Products or Equipment.

6.7 The Supplier shall indemnify NHV in full against all Losses incurred by NHV as a result of or in connection with:

6.7.1 defective workmanship, quality or materials;

6.7.2 an infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Services, Products or Equipment;

6.7.3 any claim made against NHV in respect of any Losses arising as a consequence of a breach or negligent performance or failure or delay in performance of the Services Agreement by the Supplier;

6.7.4 defective Products or Equipment;

6.7.5 any claim made against NHV in respect of any Losses arising as a consequence of the use or possession of the Equipment or the Products or the Equipment or Products failing to perform as expected, including any explosion or other malfunction of the Equipment or Products causing Losses; and

6.7.6 any failure by the Supplier to comply with any term or terms of the Services Agreement.

6.8 Without prejudice to any other right or remedy which NHV may have, if any fault or defect in any Products shall occur within twelve (12) months after the Products have been delivered, NHV shall notify the Supplier and the Supplier shall then (at NHV's option) either replace the Products or make good the Products at the expense of the Supplier and any Products so replaced or made good shall be guaranteed by the Supplier on the same terms for a further period of twelve (12) months.

6.9 Where the Supplier and/or its personnel, employees, agents, officers, directors, Services Agreementors, sub-Services Agreementors including any key personnel, or any other person at the behest of the Supplier (the "Workforce") enters the environs of any other property or premises owned or leased or occupied by NHV, in connection with the Services Agreement:

6.9.1 the Supplier agrees to hold NHV, its employees, directors, servants, agents, subcontractors and insurers (together the "Indemnified Parties") harmless, and to indemnify them:

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6.9.1.1 for any Losses of whatsoever nature that they may sustain and/or incur as a result of any act or omission by the Supplier's Workforce, and

6.9.1.2 in respect of their liability for any Claims of whatsoever nature which may be made against them by the Supplier's Workforce, their heirs or assigns, and

6.9.1.3 in respect of their liability for any Claims of whatsoever nature which may be made against them by any third party arising out of any default, act or omission by the Supplier's Workforce, and

6.9.1.4 in respect of any and all Losses incurred by them arising from any injury to or illness of the Supplier's Workforce.

6.9.2 the Supplier also:

6.9.2.1 undertakes and guarantees that all its liabilities, of whatsoever nature arising out of this clause 6.9 will be insured by the Supplier with an insurance company or facility acceptable to NHV, and further that the insurance company or facility concerned will waive its rights of subrogation against the Indemnified Parties, and

6.9.2.2 agrees, in the event of any proceedings, action, arbitration and/or claim being commenced against the Indemnified Parties in respect of any and all of the matters referred above, provide the Indemnified Parties from time to time on demand with sufficient funds to defend any such proceedings.

7. NHV's Property

7.1 If NHV or its agents, customers, personnel or subServices Agreementors supply any goods, materials, equipment or the like or any specifications, drawings or such data free of charge to the Supplier for the purposes of the Services Agreement, all such items shall be and remain the exclusive property of NHV and shall be held by the Supplier in safe custody and maintained and kept in good order and condition by the Supplier until returned to NHV.

8. Confidentiality and Intellectual Property

8.1 All techniques, processes, inventions, trade secrets, equipment, drawings, designs, specifications, documents, proposals and information concerning the Services, Products or Equipment or relating to NHV's business of which the Supplier and its Workforce shall obtain knowledge or information (except to the extent that they are within or fall into the public domain other than by breach of the Services Agreement) shall remain both during and after the completion of the business conducted under the Services Agreement the absolute and exclusive property of NHV and the Supplier shall keep confidential and retain the same with the utmost secrecy and shall use its utmost endeavours to ensure that all its Workforce shall abide by the terms of this provision as though it were binding upon each of them and the Supplier shall not, and shall procure that each member of its Workforce shall not, disclose or permit to be disclosed to any third party or otherwise use the same other than for the purpose of the provision of the Products, Equipment and/or Services, nor shall it cause or permit anything which may damage or endanger the intellectual property of NHV or allow or assist others to do so.

8.2 All copyrights and other intellectual property rights including design rights, data base rights, moral rights and rights to computer software (collectively "IPR") relating to any and all documents, works, software or data and all other material in whatever form including hard copy and electronic form produced or recorded by the Supplier or its Workforce in the provision of Products, Equipment and/or Services are hereby assigned to NHV and shall be the absolute property of NHV to do with as NHV deems appropriate. The Supplier shall, if so required by NHV, and in any event on the termination of the Services Agreement, surrender to NHV all original and copy documents, working papers, computer disks, and all other property containing IPR and/or belonging to NHV which is in the Supplier's or its Workforce's custody, power or control and shall deliver, and shall procure that each relevant member of its Workforce delivers an assignation, undertaking and waiver (in a form approved by NHV) to assign all IPR relating to any and all documents, works, software or data and all other material in whatever form including hard copy and electronic form produced or recorded by the Supplier or its Workforce (as the case may be) in the provision of the Products, Equipment and/or Services and to waive all rights in relation thereto.

8.3 The Supplier hereby agrees that, during the term of the Services Agreement and for a period of twelve (12) months after expiry or termination howsoever caused, he will not solicit NHV's staff who are known by the Supplier or by any member of Supplier's Workforce to have been employed or engaged in the performance of the Services Agreement. For the purposes of this clause, 'solicit' means a direct or indirect attempt to induce such person to take an engagement with such party as an employee, director, sub-Services Agreementor or independent Services Agreementor provided that this clause shall not apply to any engagement as a result of a general advertisement or recruitment campaign.

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9. Rejection and Termination

9.1 Without prejudice to any other right or remedy which NHV may have, if any Services, Products or Equipment are not supplied in accordance with the Services Agreement, or the Supplier fails to comply with any terms of the Services Agreement or NHV wishes to end the Services Agreement for convenience, NHV may avail itself of any one or more of the following remedies at its discretion, whether or not part of the Services, Products or Equipment have been accepted by NHV:

9.1.1 to terminate the Services Agreement (in whole or in part) by notice in Writing, without any liability on the part of NHV;

9.1.2 to reject any Products or Equipment (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier and require a full refund for the Products or Equipment so returned, to be paid by the Supplier; or

9.1.3 to refuse to accept deliveries of any further Products or Equipment and without any liability on the part of NHV.

9.2 NHV shall further be entitled to terminate the Services Agreement forthwith by notice in Writing to the Supplier if:

9.2.1 the Supplier makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a NHV) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or

9.2.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier; or

9.2.3 the Supplier ceases or threatens to cease to carry on business;

9.2.4 where the Supplier is resident in a jurisdiction other than England and Wales, an event similar to any of those specified in the above sub-clauses occurs to or in relation to the Supplier; or

9.2.5 the Supplier undergoes a change of control (where "control" for the purposes of this sub-clause 9.2.5 means the ability to direct the affairs of another whether by virtue of the ownership of shares, Services Agreement or otherwise).

9.3 In the event of termination by NHV pursuant to clause 9.2 above then, without prejudice to any other right or remedy available to NHV, NHV shall be under no further obligations under the Services Agreement and any sums already paid by NHV to the Supplier but not earned shall become repayable immediately notwithstanding any previous agreement or arrangement to the contrary and NHV shall be entitled to charge interest at the per annum rate of 2% above the base bank rate from time to time of HSBC Bank PLC from the time of such cancellation or suspension on any sums owed by the Supplier to NHV until NHV receives payment in full.

10. Force Majeure

10.1 NHV shall not be liable to the Supplier or be deemed to be in breach of the Services Agreement by reason of any delay in performing, or any failure to perform, any of NHV's obligations due to any cause beyond NHV's reasonable control including:

10.1.1 act of God, storm, flood, tempest or other weather conditions, explosion, fire or accident;

10.1.2 war or threat of war, civil war, hostilities, sabotage, insurrection, riot or civil disturbance, or requisition;

10.1.3 Governmental or local authority acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind;

10.1.4 import or export regulations or embargoes;

10.1.5 strikes, lock-outs or other industrial actions or trade disputes whether involving employees of NHV or of a third party;

10.1.6 failure or breakdown in equipment or machinery from power failure or other external causes.

11. Notices

11.1 Any notice required to be given by either Party under the Services Agreement shall be delivered or sent by pre-paid first class recorded delivery letter addressed to the registered office of the party to be served or to such other place as may be designated by Party for the purpose of service and shall be deemed to have been served

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in the case of a notice delivered by hand, when delivered, in the case of a letter, forty-eight (48) hours after the time of posting.

12. Non-Assignment

12.1 The Supplier shall not assign, transfer or sub-Services Agreement the Services Agreement or any benefit, interest, right or obligation under the Services Agreement, without the prior agreement of NHV in Writing.

13. Waiver

13.1 No act, omission, delay or indulgence on the part of NHV in enforcing the Services Agreement or any of the Terms and Conditions thereof shall operate as a waiver of NHV's rights thereunder, unless in each case NHV expressly so agrees in Writing.

15. Anti-Bribery

15.1 The Supplier shall:

15.1.1 comply, and shall procure that each of its suppliers and subServices Agreementors, and the members of its and their Workforces shall comply, with all applicable laws, statutes, regulations, and or codes relating to anti-bribery and anti-corruption;

15.1.2 not engage in any activity, practice or conduct which would constitute an offence under any applicable laws, statutes, regulations, and or codes;

15.1.3 have and shall maintain in place throughout the term of the Services Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure its compliance with clauses 15.1.1 and 15.1.2 and will enforce them where appropriate;

15.1.4 promptly report to NHV any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Services Agreement; and

15.1.5 immediately notify NHV in writing if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of the Services Agreement). 15.2 The Supplier shall ensure that any person associated with the Supplier who is providing Products or Services, or hiring Equipment in connection with the Services Agreement does so only on the basis of a written Services Agreement which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 15.

16. Forced Labour

16.1 The Supplier shall:

16.1.1 comply, and shall procure that each of its suppliers and subServices Agreementors, and the members of its and their Workforces, shall comply with all applicable laws, statutes, regulations and codes relating to slavery, servitude, forced or compulsory labour and human trafficking;

16.1.2 undertake not to purchase any resource, materials or products from producers, suppliers or manufacturers using forced or compulsory labour in its operations or practices;

16.1.3 have and shall maintain in place throughout the term of the Services Agreement its own policies and procedures to ensure its compliance with clauses 16.1.1 and 16.1.2 and will enforce them where appropriate; and

16.1.4 immediately notify NHV in writing if it becomes aware of any breach or alleged breach of this clause within its supply chain (and the Supplier warrants that has not been convicted of any offence involving slavery and human trafficking and, having made reasonable enquiries, to the best of its knowledge none of its suppliers or subServices Agreementors or its or their Workforce or direct or indirect owners at the date of the Services Agreement have been or are the subject of any investigation, enquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding an offence or alleged offence of or in connection with slavery and human trafficking).

16.2 The Supplier shall ensure that any person associated with the Supplier who is providing Products or Services, or hiring Equipment in connection with the Services Agreement does so only on the basis of a written Services Agreement which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 16.