

General Terms and Conditions of Purchase

VER. 20171207

1. Definitions

- 1.1. "Buyer" means Milrem AS.
- 1.2. "Contract" means the Purchase Order and this General Terms and Conditions of Purchase.
- 1.3. "Party" or "Parties" means Buyer and Seller separately or together.
- 1.4. "Product" shall refer to materials, goods, supplies or services to be delivered by Seller to Buyer under a Contract.
- 1.5. "Seller" means the Party to be under a Contract with the Buyer.
- 1.6. "Purchase Order" shall refer to the part of the Contract.
- 1.7. "Intellectual Property" means an intangible right in personal property that is a product of the intellect that has actual or potential economic value, including without limitation, trade secret(s), improvement(s), invention(s), copyrights, patents, patents pending, trade dress, service marks, trademarks, trade names, services names, registrations, software, algorithms, object codes, source codes, artwork, schematics, designs, drawings, other technical data, know how, sketches, business plans, labour rates, overhead rates, data, and the like.

2. Concluding of the Contract

- 2.1. Seller issues the quotation as a respond to Buyer`s request. After receiving the quotation from Seller, Buyer issues Purchase Order to the Seller stipulating conditions of the supply or informs Seller that Purchase Order is being compiled.
- 2.2. Seller proposed terms and conditions not expressly agreed to in writing by the Buyer shall be void and have no effect on the Contract.
- 2.3. The Seller shall conclude with a Buyer a Non-Disclosure Agreement (NDA). Seller is obliged to refrain from disclosing confidential information to anyone, except as expressly permitted in the NDA. The information disclosed before concluding of NDA is also confidential and Seller is obliged not to disclose such information without Buyer`s written consent.
- 2.4. Generally, Buyer`s request and Seller`s quotation are not the part of the the Contract, if otherwise is not specified in Purchase Order.
- 2.5. By accepting Buyer`s Purchase Order the Seller confirms its acceptance of all conditions of this Terms & Conditions of Purchase.

3. Order of Precedence



3.1. Any inconsistencies in the Contract shall be resolved in accordance with the following descending order of precedence: (i) accepted Purchase Order; and (ii) Terms & Conditions herein.

4. Compliance with requirements

- 4.1. During performance of the Contract Seller fulfills all applicable laws, ordinances, directives, and guidelines, and any and all rules and regulations thereunder.
- 4.2.4.2. During performance of the Contract Seller agrees to comply with all Buyer`s requirements.
- 4.3.4.3. Seller supplies Product considering the quality ensuring procedure rules.
- 4.4.4.4. Seller shall procure all necessary licenses and permits and pay all fees and other charges that may be required in the performance of the Contract.
- 4.5.4.5. Seller shall provide to Buyer all representations, certifications and authorizations as required by law or regulation or as specified by Buyer in the Contract.
- 4.6. All requirements of the Contract between Buyer and Seller may be subject to inspection and testing according to GQA*. Seller will be notified of any GQA activity to be performed. Seller shall, without additional charge, make such inspection and testing available.

5. Contract communication

- 5.1. Seller shall take directions only from representative of the Buyer, who sent the Purchase Order or was designated as representative of Buyer by the Purchase Order.
- 5.2. Seller may and is encouraged to communicate directly with Buyer personnel as needed prior to or during the performance of the Contract. However, such communication shall not constitute a change and shall not be a basis for equitable adjustment.
- 5.3. All communications with Buyer`s customer will be performed by Buyer only.

6. Counterfeit parts

- 6.1. Counterfeit parts are defined as parts / work that have been altered to resemble authentic parts / work with the intent to deliberately mislead, misrepresent or defraud.
- 6.2. Seller shall not deliver counterfeit parts / work to the Buyer under the Contract.
- 6.3. Seller represents and warrants that only new and authentic parts / work will be used in the performance of the Contract.

6.4. Seller shall immediately notify Buyer if Seller becomes aware of or suspects that it has furnished counterfeit parts / work to the Buyer, and shall assist Buyer in determining the extent and resolution of the matter, up to and including any and all expenses required to replace the counterfeit parts / work.

7. Delivery

7.1. Delivery is an essential part of the performance of the Contract. Seller's failure to meet delivery dates, if unexcused, constitutes a material breach of the Contract; and no acts of the Buyer, including without limitation changes or acceptance of late deliveries shall constitute waiver of this provision.

7.2. Seller shall notify Buyer in writing and by phone immediately upon any actual or potential delay to perform the Contract.

7.3. In case of delay with delivery more than 3 days, Seller is obliged to pay a penalty in amount 0,5%, but at least 500 euros, per day calculated from the price of delivery for each day of delay. This penalty will be set-off with the price of delivery, which should be paid to the Seller by the Buyer.

7.4. Seller shall be responsible for any and all damages incl. loss of income and all costs caused by late delivery event. This requirement does not apply to orders expressed as *ad hoc*** on Purchase Order.

8. Packaging and transportation

8.1. Seller shall ensure that Product is properly packaged, marked and shipped in accordance with Buyer's written instructions and / or good commercial practices.

8.2. The delivery clause (Incoterms) shall be determined by Purchase Order.

9. Export Control

9.1. Seller agrees to be subject to export controls, if it applies.

9.2. Seller shall prove its compliance with export requirements and shall fulfil them. In case of any resistance, Seller shall remain responsible for it. Seller shall be solely responsible for and hold the Buyer and its customer harmless from and against any and all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and / or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

10. Inspection

- 10.1. Buyer shall have the right to inspect, control and / or test Seller's Product at any places and times before, during and after Seller's performance and delivery under the Contract.
- 10.2. Buyer's acceptance of Product under the Contract shall not void Buyer's rights in the event that latent defects, fraud, or misrepresentation on the part of the Seller exists.

11. Nonconforming Product

- 11.1. Nonconforming product is defined as Product that does not meet the specification requirements set forth in the Contract and is unfit for its intended use under the Contract or is not right Product ordered by Buyer.
- 11.2. Buyer doesn't accept nonconforming Products. At the discretion of the Buyer the nonconforming Product shall be returned to Seller immediately at the expense of the Seller. In case of nonconforming products Seller shall repair, rework or replace nonconforming Product. Buyer also has a right to reduce price of the Product based on suitable application of the Buyer.
- 11.3. If Seller do not repair, rework or replace nonconforming Product during reasonable time, the Buyer may perform repair or rework of nonconforming Product at the expense of the Seller. The Seller shall compensate to the Buyer suitable costs.
- 11.4. Seller shall be responsible for any and all damages, incl. loss of income and all costs caused by a nonconforming Product event.
- 11.5. If the Buyer discovers nonconfirming Product or latent defect, the Buyer shall notify in written the Seller within 14 days of becoming aware of a lack of compliance. The fee for composing of reclamation is 50 euros, which should be covered to the Buyer by the Seller. The Seller is obliged to answer for reclamation during 7 days. If reclamation was not submitted it is not considered as a waiver of warranty.
- 11.6. In case of disagreement between Parties, the independent expertise may be ordered. The costs of the expertise will bear this Party who lost the case.
- 11.7. If Parties do not reach a compromise during 60 days starting from discovering of nonconforming Product, the Buyer may submit an appeal to the court.

12. Payments

- 12.1. Payment terms under the Contract shall be net thirty (net 30) days from the date when Buyer receives the Product based on applicable Incoterms term.
- 12.2. Buyer is entitled to set-off against sale price of the Product, payments due or at issue under the Contract or any other contract between the Parties.



- 12.3. Unless otherwise specified by Buyer, prices as they appear on Seller's invoice are assumed to include all applicable taxes, duties, tariffs, and similar fees imposed by any government.
- 12.4. Invoice and its specification shall be sent electronically to e-mail address of contact person named in Purchase Order or to the e-mail address named in Purchase Order or by ordinary post to Betooni 1, 11415 Tallinn, Estonia.

13. Changes

- 13.1. Buyer may make changes to the Contract by written notice. A change may be to the delivery dates or any other material aspect of the Contract; it may originate by the Buyer, or the Buyer's customer, or the Seller.
- 13.2. If Seller believes that a change constitutes a material change to the scope of work, such that price or delivery are affected, Seller may, within 10 calendar days from when the change was first made known, make a request for equitable adjustment.
- 13.3. Buyer and Seller shall negotiate in good faith to determine the validity of a request for equitable adjustment, and if found to be valid, to determine a fair and reasonable price thereto.
- 13.4. Seller shall diligently proceed with the performance of the Contract during a change or equitable adjustment process as directed by the Buyer.
- 13.5. Seller shall provide Buyer with a "Last Time Buy Notice" immediately after being made aware that Product will become obsolete. Upon receipt of such notice, Buyer reserves the option to place a "Last Time Purchase" under the Contract.
- 13.6. The changes in the Purchase Order being in progress shall be agreed by Parties in written.

14. Intellectual Property

- 14.1. Seller warrants that work performed or Product delivered under the Contract will not infringe or otherwise violate the intellectual property rights of any third party.
- 14.2. Seller agrees to defend, indemnify, and hold harmless Buyer and its customer from and against claims, damages, losses, costs, and expenses, including reasonable attorney's fees, arising out of any action by a third party that is based upon a claim that the work performed or Product delivered under the Contract infringes or otherwise violates the intellectual property rights of any person or entity.
- 14.3. Intellectual property rights of Buyer's drawings, designs and Products developed under the Contract for Buyer remain with Buyer.



15. Force Majeure

- 15.1. Non-performance by a Party is excused if it is caused by force majeure. Force majeure are circumstances which are beyond the control of the Party and which, at the time the contract was entered into or the noncontractual obligation arose, the Party could not reasonably have been expected to take into account, avoid or overcome the impediment or the consequences thereof which the Party could not reasonably have been expected to overcome.

16. Warranty

- 16.1. The warranty period of delivered Products shall begin upon acceptance of Product and extend for a period of not less than one (1) year. Buyer may ask for a longer warranty period.
- 16.2. During the warranty period Seller shall repair, rework or replace nonconforming Product. If Product is repaired during warranty period two times, the Buyer has a right to return the Product and receive the price paid for it back.

17. Termination for Convenience

- 17.1. Buyer may, by written notice to Seller, terminate the Contract for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default.
- 17.2. Upon receipt of a termination for convenience notification Seller shall: (i) stop work as specified in the termination notice; (ii) place no further purchase orders; and (iii) except as necessary to complete the nonterminated portion of the Contract, terminate all purchase orders to the extent they relate to the work terminated.
- 17.3. In the event of a partial termination, Seller is not excused from and shall diligently perform any nonterminated balance of work under the Contract.
- 17.4. Seller may submit a settlement proposal to Buyer promptly, but no later than thirty (30) days from the effective date of the termination.
- 17.5. Buyer and Seller agree to negotiate in good faith to determine a fair and reasonable settlement amount.
- 17.6. In no event shall the settlement amount exceed the value of the Contract.



18. Termination for Default

- 18.1. Buyer may, by written notice to Seller, terminate the Contract for default, in whole or in part, if Seller fails to perform one or more material aspects of the Contract, which may include but is not limited to:
 - (i) failure to deliver Product within the time specified;
 - (ii) failure to deliver a conforming Product.
- 18.2. Buyer shall clearly and fully state the specific material aspect of the Contract that Seller has failed to perform.
- 18.3. Before termination of the Contract, Buyer may, at its sole discretion, issue a written cure notice with a cure period of not more than ten (10) days.
- 18.4. Buyer may acquire Product similar to those terminated and Seller shall be liable to Buyer for any excess costs related thereto.

19. Final provisions

- 19.1. Except as otherwise provided herein, the rights and remedies of both Parties hereunder shall be in addition to their rights and remedies at law.
- 19.2. Any assignment of Seller's Contract rights or delegation of its duties or obligations hereunder shall be void, unless prior written consent is given by Buyer.
- 19.3. The Contract constitutes the entire agreement between the Parties and supersedes all other preceding offers, negotiations or agreements, expressed or implied, oral or written, concerning the subject of the Contract if otherwise is not stipulated by Purchase Order.
- 19.4. The Contract and any matter arising out of or relating to it shall be governed by the laws of the Republic of Estonia.
- 19.5. Any dispute arising out of or in connection with the Contract shall be finally resolved by Harju County Court, Tallinn, Estonia.
- 19.6. These conditions are valid for unspecified term. Buyer may provide changes of these conditions, about which Seller will be informed in advance.

*GQA - NATO Mutual Government Quality Assurance

**Ad hoc - happening only for a particular purpose or need, not agreed or planned beforehand.