

Cargotec Purchasing General Conditions

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Definitions

Cargotec - Cargotec unit entering into the Supply Agreement.

Supplier - the company supplying the Product to Cargotec.

Supply Agreement - shall mean the agreement, if any, entered into between the Parties governing their

Purchaser - Supplier relationship. If alternatively applicable, the Supply Agreement shall mean the purchase order to which these Purchasing General Conditions are attached;

Product - the item delivered or the work or service performed by the Supplier to Cargotec including but not limited to drawings and attached documents.

Parties - the Supplier and Cargotec.

Third Party - a Party which is not the Supplier or belonging to Cargotec Group.

These Purchasing General Conditions shall apply to the purchases made by Cargotec to the extent that they are not contrary to stipulations which are either included in the order of Cargotec or otherwise expressly confirmed by Cargotec in writing.

1. Technical Documents

All technical documents, instructions for safety, use and maintenance, spare parts manual, certificates and drawings related to the Product shall be included in the contract price and shall be issued and supplied to Cargotec before the delivery of the Product. Cargotec has the right to use and copy these materials for any proper purpose and to place such documents or copies thereof at the disposal of the subcontractors concerned, Cargotec's customer, classification societies and other inspection authorities, insurance companies, as well as companies which may be called upon to carry out maintenance or repairs to the Products. Cargotec also has the right to include or use such technical material when compiling instructions or manuals necessary for finalising Cargotec's product or for the use of the end products.

All drawings and technical documents relating to the Product or its manufacture, submitted by one Party to the other, shall remain the property of the submitting party. Such documentation may not, without the consent of the submitting party, or except as stated herein be used or copied, reproduced, transmitted or communicated to a Third Party.

2. Confidentiality

All information, technical documentation, know-how and equipment including electronically stored data and geometries as well as non-written and orally expressed information, to which a Party has obtained or will obtain access through the Parties' business relationship and possible future co-operations, including any process investigating of possibilities of such cooperation, shall for the duration of the Supply Agreement, and for ten (10) years thereafter, be treated as confidential and may not be used for any other purpose than for the deliveries to Cargotec. Copying or reproduction of such confidential information is permitted only within the framework of fulfillment of a Party's obligations and with regard to the copyright laws and regulations.

The Supplier shall at Cargotec's request either return or destroy all confidential information of Cargotec, including copies thereof. The provisions in this section do not limit Cargotec's rights according to section 1.

3. Modifications

The Supplier shall not introduce any modifications to the design, manufacture or workmanship of the Products as set out in the Supply Agreement and relevant related documents without the written permission of Cargotec.

Cargotec shall have the right to stipulate reasonable modifications regarding the extent of the Supply Agreement as well as the design, manufacture or workmanship of the Products. Justifiable adjustments to the purchase price and delivery time arising therefrom may be requested by either Party.

No claim for compensation for increased costs or for changed delivery time or other modification to the terms and conditions of the Supply Agreement shall be made by the Supplier unless the modification is confirmed in writing by Cargotec.

The liability of the Supplier shall also extend to modifications requested by Cargotec. Should Cargotec, against the Supplier's express advice to the contrary, insist on any particular material or any particular design, the Supplier shall have the right, before effecting the modifications, to disclaim in writing any responsibility for the consequences thereof.

4. Delivery

Agreed trade terms shall be construed in accordance with INCOTERMS 2013. If no trade terms are specifically agreed, the delivery clause shall be FCA Supplier's facility.

The method of planning of deliveries differs between the different Cargotec units, see Supply Agreement for details. Unless otherwise agreed, planned volumes shall be regarded as forecasts only and shall not be binding on Cargotec. However, the Supplier shall maintain sufficient production and delivery capacity to ensure that deliveries can be made in accordance with forecasted volumes in the delivery plans.

If the Supplier delivers a quantity either in excess of Cargotec's order or prematurely, Cargotec shall not be responsible for taking delivery or storing or maintaining such Products and shall further be entitled to return any such excess or prematurely delivered quantity to the Supplier at the Supplier's expense or receive compensation for storage costs.

Cargotec is not obliged to inspect the Product at the time of delivery but only when it will be used in Cargotec's production and then only by taking samples at random and without having to dismantle the product or making similar extraordinary inspections.

Cargotec shall have once a contract year a possibility to return its overstock of Products and spare parts at purchase price paid by Cargotec, provided that such Products are resalable to a third party. Cargotec shall be responsible for the freight cost in such returns.

5. Transfer of Title

Title to the Products, all work done and all materials intended for the completion of the Supply Agreement shall pass to Cargotec at the time of: (a) delivery, or (b) payment of the first installment of the purchase price, whichever occurs first.

6. Delayed deliveries

If the Supplier has reason to assume that he will not be able to meet the delivery time as agreed in the Supply Agreement, he shall immediately notify Cargotec thereof in writing, stating the cause and estimated duration of the delay. The Supplier shall use its best endeavors to reduce the time of delay. Cargotec shall be entitled to demand the Supplier to arrange on Supplier's cost an express transportation to limit as far as possible the effects of the late delivery.

If the agreed delivery time for the Products or for the documents pertaining thereto is exceeded and if the Supplier cannot prove that the delay is directly attributable to any circumstances which according to Section 18 are to be considered Force Majeure, Cargotec shall be entitled to compensation, as liquidated damages amounting to 1 % of the total purchase price for the Products ordered under the purchase order per each calendar day by which the delivery date is exceeded, the liquidated damages shall be maximum 20% the total purchase price for the Products ordered under the relevant purchase order. The above mentioned liquidated damages shall not in any way limit or exclude Cargotec's right to full compensation of damages, or any other rights according to the Supply Agreement or applicable law.

In addition to any other right Cargotec has according to the Supply Agreement Cargotec is entitled to, (i) completely or partly terminate the purchase of the Product and of other Products which Cargotec does not consider having any use of due to the late delivery, and (ii) make substitute purchases from other suppliers. The Supplier shall compensate Cargotec's direct and indirect losses, costs and damages arising out of or relating to the late delivery.

7. Purchase Price and Terms of Payment

The Purchase Price shall be fixed and shall include packing, packing material, service fees and all costs due to invoicing.

Payments shall be made within the agreed terms of payment calculated from the receipt of the invoice by the addressee stated on the order, but not earlier than the day on which the Products have arrived physically at the agreed address, and shall also be made in accordance with the other conditions that the Parties have agreed upon in writing. The term of payment shall, in the absence of any other agreement, be minimum ninety (90) days. Payment within this time is subject to conditions that the invoice is correctly addressed and contains all information necessary to Cargotec.

When the Supply Agreement includes the supply of technical documents, the calculation of time of payment shall not commence until the documents have been received and accepted.

Payment, assembly or usage of the Products does not imply any acceptance of the delivery or of the invoiced amount.

To the extent permitted by applicable law, and in addition to any other remedy which Cargotec may have, any Cargotec unit may deduct from or set off against the Purchase Price any compensation, damages, indemnity or any other sum payable by the Supplier to any other Cargotec unit. This shall be regardless of the place of payment or currency of either obligation. If any obligation is unliquidated, unascertained or disputed by amount, Cargotec may set off the undisputed amount or amount estimated by him in good faith to be the amount of the obligation.

Whenever Cargotec is entitled to a set-off, Cargotec can make a declaration to the Supplier that his claim/s will be set off against Cargotec's counterclaim/s which results in the exhaustion of both the parties' obligations up to the amount they are equal in value.

8. Packing, marking and storage

The Supplier shall be responsible for appropriate packing, marking and storing of the Products according to the instructions of Cargotec.

The Products shall be delivered as packed in the most appropriate manner with regard to the means of transportation to be used and the nature of the Products. The packaging shall protect the Products against dirt and all kinds of damage and corrosion, taking into account the duration of the transportation, all possible transfers from one means of transportation to another and the length of storage time. The packaging shall be suitable for the Products to be handled either manually or mechanically.

If the Supplier deems Cargotec's instructions unfit for the Products, or is unwilling to act in accordance with the instructions for any other reason, the Supplier shall notify Cargotec thereof and Cargotec shall decide on the procedure. If notification is omitted and the packing is not in conformance with the packing instructions of Cargotec, Cargotec shall be entitled to charge the Supplier for any extra handling costs incurred and if the Products are damaged due to unfit packing, the Supplier shall immediately upon the request of Cargotec deliver substitute Products at the Supplier's expense or Cargotec can make substitute purchases from other suppliers at the Supplier's expense.

Cargotec is entitled to determine the packing sizes when ordering the Products.

In case the Products are delivered by the Supplier directly to Cargotec's customer, then the Supplier shall not, without the Cargotec's permission, place any delivery note, specification or sales or marketing material in packages of the Products.

9. Testing

In order to ensure that Cargotec is given the opportunity to reassure that a Product is free from defects, the Supplier shall, prior to delivery of new or changed Product, manufacture and perform quality control of samples in accordance with Cargotec's from time to time valid requirements relating to testing.

Once a sample has been approved, alteration of the function, appearance, characteristics, material, production method, place of manufacture, tooling or other equipment, which may affect the Product, may be done only after written approval by Cargotec. Delivery may thereafter be made only after renewed approval of an altered sample.

Cargotec's approval of samples or drawings and supervision of design work or manufacture shall not affect the Supplier's liability and/or obligations in accordance with the Supply Agreement and does not in any way limit Cargotec's right to present claims.

10. Purchase Inspection and Quality

Cargotec or Cargotec's representative or customer shall be entitled to perform inspections related to quality control and/or manufacture of the Product at the Supplier's production plant at times desired by Cargotec both during manufacture of the Product and after completion thereof. For this purpose the Supplier shall make available to Cargotec all documents in his possession relating to manufacture and manufacturing processes and shall place at the disposal of Cargotec free of charge any necessary equipment and premises. Furthermore the Supplier ensures that Cargotec has the possibility to perform such inspections also at the production plants of the Supplier's sub-suppliers.

The inspections and tests performed by Cargotec shall in no respect decrease the Supplier's obligations and responsibilities stipulated in the Supply Agreement and do not in any way limit Cargotec's right to present claims.

11. Supplier's subcontractors

The Supplier shall inform Cargotec of any change in Supplier's subcontractors. Supplier shall be responsible for its subcontractors' performance.

12. Warranty

The Supplier warrants that the Products supplied are free from defects. A Product shall be considered defective if it

- (i) in any respect deviates from the technical specification,
- (ii) does not possess the characteristics that the Supplier has referred through samples, prototypes or in marketing,
- (iii) is not as safe as Cargotec could reasonably have expected,
- (iv) is not fit for the particular purpose for which Cargotec intended it to be used, or
- (v) otherwise deviates from what Cargotec reasonably could have expected

The warranty period is 24 months from the date on which the end product has been taken into use, but shall not exceed 36 months from the date on which the Products have been delivered to Cargotec. Claims shall be presented no later than 6 months after the end of the warranty period.

If any repair under the warranty period is made after Cargotec's customer has put the Products in service, the warranty period in respect of repaired or replaced Products shall be extended by 12 months from the date when the repair or replacement work was approved by Cargotec's customer.

The above-stated time limits shall, however, not apply, should there be a risk of personal injury or damage to property other than the defective part, or of a repetitive defect.

It is implied in the guarantee that the faults and defects found under the guarantee period existed already when the Products were delivered to the Cargotec. The warranty under the Supply Agreement shall be in addition to and not in limitation of all other warranties, guarantees, remedies or indemnities required and/or arising pursuant to applicable law.

13. Liability for defects or shortcomings

As Cargotec's international operations in the cargo handling business demand all due promptness and reliability, it is understood that the Supplier appreciates and accepts the fact that time and quality is of the essence. The Supplier shall use his best efforts to fulfill his obligations in respect of the quality, quantity and delivery time of the Products.

In the event that a Product is defective or a delivery does not contain the agreed quantity, Cargotec shall be entitled to (i) demand immediate rectification, or (ii) demand immediate delivery of substitute Product(s).

If a defective Product cannot be repaired or replaced without delay or if there is a risk of production disturbances at Cargotec or delivery disturbance from Cargotec, Cargotec shall be entitled, without obtaining the Supplier's consent and at the Supplier's expense, to make the necessary repair work or completely or partly annul the purchase of the Product and other such Products that Cargotec does not consider having any use of due to the defect or shortcoming, and also to undertake substitute purchases from another supplier.

The Supplier shall compensate Cargotec for any loss or damage, direct as well as indirect, arising out of or relating to any breach of the Supply Agreement, including but not limited to costs for assembly and disassembly, detection and analysis, scrapping and transportation.

If Cargotec due to a delivery of a defective Product considers it necessary to inspect all Products of the same kind delivered by the Supplier, Cargotec is entitled, after giving the Supplier notice thereof, to make such inspection at the Supplier's expense and without awaiting the Supplier's approval. The notice shall describe the nature of the defect as well as the time and place of the inspection. If possible, the Supplier shall be present at the inspection.

14. Indemnity

Except to the extent the Product has been designed or specified by Cargotec, the Supplier shall assume liability for the Product being in compliance with the requirements of valid laws, statutes and regulations.

The Supplier shall indemnify and hold Cargotec harmless against any losses and claims for injuries or damage to any person or property which may arise out of or in consequence of the performance of the Supply Agreement by the Supplier and against all claims, demands, proceedings, damages, costs, charges and expenses in respect thereof or in relation thereto, provided always that the Supplier's liability to indemnify Cargotec as aforesaid shall be reduced proportionately to the extent that an act or omission of Cargotec, its employees or representatives may have contributed to the said loss, injury or damage.

If there is a risk of an end-product causing personal injury or property damage due to defects in the supplied Product, Cargotec has the right to decide on the recall of the end-product, and if Cargotec thus decides the Supplier shall compensate Cargotec for its costs in conjunction with such recall.

15. Product Liability Insurance

The Supplier shall enter into and maintain on a continuous basis a global product liability insurance (or a general liability insurance which includes global coverage for product liability) with an insured amount of not less than one million (1,000,000) Euro per event and, which shall be valid as long as claims can be made against Cargotec under applicable laws or regulations. The Supplier shall at Cargotec's request also supply Cargotec with a copy of the insurance certificate. The Supplier may not terminate such insurance without prior written consent of Cargotec.

16. Tooling

If Cargotec is supplying tools or equipment for the manufacturing of the Product or if the Supplier acquires such tools or equipment at the specific request of Cargotec such tools shall be the property of Cargotec.

The Supplier shall at his own cost undertake to maintain tools and equipment in such a way that the Product specifications are complied with. The Supplier reassures that all tools that are the property of Cargotec will at all times be marked as specified by Cargotec and will maintain sufficient documentation as to verify that these are the property of Cargotec. The Supplier will also undertake to inform Cargotec in due time in the event that renewal will be needed.

The Supplier shall at all times carry sufficient insurance, to cover any damage to these items.

The procedure with use and return of the tools shall correspond to what is mentioned above under section 1 and 2 for drawings and documents.

17. Liens

Supplier shall ensure that title to the Products shall be free and clear of any and all liens. Supplier agrees that it will be exclusively responsible for and indemnify and hold Cargotec harmless from any such lien as well as all claims for non-payment by Supplier to its suppliers and subcontractors.

18. Force Majeure

The following circumstances as examples but not limited to, shall be considered "force majeure", if they impede the performance of the Supply Agreement: nationwide industrial disputes and any other circumstances beyond the control of the Parties such as fire, war, general mobilisation, seizure, currency restrictions, insurrection, riot and acts of God. The Party wishing to claim relief shall notify the other Party in writing as soon as the intervention and the cessation of such circumstance take place. The Supplier shall notify Cargotec when the delivery can be expected. Force Majeure does not include occurrences or disruptions that make the performance under the Supply Agreement merely commercially impracticable.

19. Termination of the Supply Agreement

Cargotec may terminate the Supply Agreement with immediate effect if:

- a) the Supplier's performance of the Supply Agreement is impeded for more than one (1) month by reason of "force majeure"; or
- b) the Supplier has committed a material breach of the Supply Agreement. In addition to the above, a Party is entitled to terminate the Supply Agreement with immediate effect if;
- c) the other Party enters into composition negotiation, is declared bankrupt, goes into liquidation or for any other reason can be assumed to have become insolvent or not able to fulfil his obligations stipulated in the Supply Agreement; or
- d) the other Party is acquired by a competitor to the first Party.

Termination according to this provision shall be done without unreasonable delay after such circumstance becomes known to the Party or should have become known to the Party.

Termination shall be made in writing. The Supplier undertakes to inform Cargotec of any change in its ownership and will irrespective of grounds for termination continue deliveries to Cargotec to the extent necessary, however minimum six (6) months from date of termination, at prices and other conditions valid before that date.

19.2 Cargotec shall have the right at any time by written notice to the Supplier to terminate the purchase order, including any committed forecasts, and to require the Supplier to cease work thereunder, if Cargotec's customer has terminated the respective order between Cargotec and its customer or in case of a sudden or dramatic change in market demand.

In the event of termination under this subsection 19.2, and provided always that the Supplier is not in default, the Supplier shall be entitled to payment pursuant to the terms of the Supply Agreement for all direct costs it has accrued for the Products delivered and work performed as of the date of the termination. It is a precondition to any payments hereunder that the Supplier verifies all costs and expenses by sufficient documentation. The Parties acknowledge that the Supplier shall not be entitled to profit on any part of the terminated work, unless delivered to Cargotec and approved for payment before the date of termination. Cargotec shall not be responsible for costs relating to Products that are resalable to a third party.

The Parties shall have no liability because of termination other than in accordance with the provisions above.

20. Assignment of the Supply Agreement

A Party may not assign the rights or obligations under the Supply Agreement to any Third Party without the other Party's written consent. If an essential change takes place in the Supplier's ownership, it shall immediately be reported to Cargotec and the Supplier must assure that the Supply Agreement will be upheld. Cargotec may, however, without the Supplier's consent assign the Supply Agreement to any other company within the Cargotec Group.

21. Limitation of Liability

In no event, to the extent permitted by law, shall Cargotec be liable for the Supplier or any third party for any consequential or indirect loss or damages, including but not limited to damage to persons or property, loss of profit or loss of use whether or not Cargotec has been advised of the possibility of such loss or damage.

22. Compliance

The Supplier shall ensure that the United Nations (UN) Universal Declaration of Human Rights, the International Labour Organization (ILO) regulations on Child Labour and the Declaration on Fundamental Principles and Rights at Work are observed in the production of the Products.

The Supplier agrees to operate in an environmentally conscious manner. The Supplier, its subcontractors and their respective employees shall strictly comply with all laws and regulations and any additional information as referenced to within the Supply Agreement such as but not limited to health and safety, labour and environmental regulations (including without limitation the REACH regulation) which are appropriate and applicable to the location(s) where the Supply Agreement is being performed.

The Supplier will comply at all times with all applicable laws and regulations pertaining to anti-money laundering, embargoes and/or sanction requirements as well as the US Foreign Corrupt Practices Act and the UK Bribery Act.

The Supplier agrees that, at all times in connection with and throughout the course of the Supply Agreement, it will not give or accept any undue pecuniary or other advantage of any kind to the extent that doing so would be in violation of the anti-bribery laws of any relevant jurisdiction, including without limitation, the US Foreign Corrupt Practices Act and the UK Bribery Act. All payments under this Agreement shall be made by check or wire transfer.

Supplier confirms that it is aware of and follows Cargotec's Code of Conduct, Cargotec's Supplier Code of Conduct and principles of social responsibility as made publicly available by Cargotec from time to time.

23. Spare Parts

The Supplier shall pursuant to the conditions in the Supply Agreement guarantee the flexible supply of spare parts for the Product at commercially moderate prices for a period of fifteen (15) years after Cargotec's purchases for serial production from the Supplier have ceased.

24. Intellectual Property Rights

Any technology, including specifications, designs or tools provided by Cargotec, is the property of Cargotec and may not be used for other purposes than to fulfill the obligations in the Supply Agreement. In particular the Supplier shall not produce the Product for himself or sell to Third Parties if the Product is manufactured wholly or partly in accordance with technical specifications or other technology, designs knowhow or tools provided by Cargotec.

The title and all intellectual property rights in and to the Products, inventions or know-how developed together by the Parties, or by the Supplier on Cargotec's request, shall vest in and be the sole and exclusive property of Cargotec.

The Supplier shall assume liability for, indemnify and hold Cargotec, Cargotec's affiliates and customers harmless from all claims, expenses and proceedings related to infringements of patents or other intellectual property rights in relation to the Product and the use thereof, unless the claimed infringements relates solely to technical specifications provided by Cargotec. The Supplier's responsibility and liability to hold Cargotec, Cargotec's affiliates and customers harmless continues even after the Supply Agreement has terminated as long as claims may be presented by a Third Party against Cargotec, Cargotec's affiliates or customer.

In order to protect Cargotec's knowhow and confidential information, the Supplier shall not allow representatives of Cargotec's competitors to enter those Supplier's premises where Products that include Cargotec's technology or knowhow are developed or manufactured and the Supplier shall inform Cargotec in case it develops or supplies equivalent, similar or competing products to any Cargotec's competitor.

25. Offset Cooperation

The Supplier acknowledges that the Buyer, in various international markets, has to accept offset and/or countertrade obligations under which the Buyer may be required to offer some level of industrial benefit back to the Buyer's customer which may be directly or indirectly to the end user. The Supplier agrees and commits that on a case by case basis

and to the best endeavors of the Supplier, that the Supplier will where requested by the Buyer, in a mutually acceptable manner and to a mutually acceptable value, pro-actively support the Buyer in the Buyers' activities to discharge its offset/countertrade obligations.

26. Order of priority of Supply Agreement Documents

The Supply Agreement may comprise following documents:

1. Supply Agreement
2. Cargotec's order
3. Cargotec's Purchasing General Conditions
4. Supplier's order confirmation
5. Supplier's offer

Should the contents of the above-mentioned documents be in conflict, they shall be valid in the sequence numbered with no 1 as the highest priority.

27. No Waivers

Any failure of either Party to enforce, at any time or for any period of time, any of the provisions of the Supply Agreement shall not be construed as a waiver of such provisions or of the right of the Party thereafter to enforce each any every such provision.

28. Provisions severable

In case any provision or any part of a provision of the Supply Agreement held invalid or unenforceable, the validity of the remaining provisions of the Supply Agreement shall not be affected thereby and each remaining provision or part thereof will be valid and enforceable to the full extent permitted by law.

29. Entire Agreement

None of the Parties shall be bound by any definition, condition, representation, warranty or covenant other than expressly stated in the Supply Agreement or its annexes or as otherwise agreed by the Parties in writing.

30. Applicable Law and Disputes

In case a Cargotec unit and the Supplier have the same domicile, the Supply Agreement will be governed and constructed in accordance with the law in that country. In other cases the Supply Agreement is to be governed and constructed in accordance with Finnish law. Any dispute, controversy or claim arising out of or in connection with the Supply Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finnish Central Chamber of Commerce by sole arbitrator. The arbitration proceedings shall be held in Helsinki, Finland and the language shall be English.