

# Terms and Conditions of Purchase (indirect purchasing)

## 1. DEFINITIONS

In these terms and conditions of purchase (the "Terms"): **Agreement** means these Terms, the Purchase Order and all documents specified on it; **Delivery Date** means (i) for Goods, the date the Goods must be delivered to the delivery location; and (ii) for Services, the date the Services must be completed, as set out in the Purchase Order; **Goods** means the goods identified in the Purchase Order, including the software embedded therein and documentation relating thereto; **Price** means the price set out in the Purchase Order; **Purchase Order** means the purchase order issued by the Purchaser to the Seller for the purchase of the Goods or Services; **Purchaser** means Sandvik Mining and Construction Oy or Sandvik Mining and Construction Finland Oy and any company within the Sandvik Group; **Sandvik Group** means Sandvik AB (publ) and any of its affiliates; **Seller** means the person providing the Goods or Services named as such on the Purchase Order; **Services** means the services identified in the Purchase Order and the Seller's marketing material.

## 2. AGREEMENT

These Terms, together with the Purchase Order and all documents specified on it, constitute the entire terms of the Agreement. These conditions shall apply to all Goods and/or Services deliveries from the Seller to Purchaser, where i) these Terms are attached to the applicable agreement or Purchase Order or ii) a reference to these Terms has been made in the applicable agreement or Purchase Order. In the event of ambiguity, conflict or confusion between these documents, the documents will rank in the following order of precedence (1) the Purchase Order (2) these Terms (3) any other document referred to in the Terms.

If the Seller cannot confirm a Purchase Order without changes (including, for the avoidance of doubt, references to terms and conditions which amend, or attempt to amend, the terms of the Agreement), the Seller shall reject the Purchase Order or present changes to the Purchaser in writing without delay. The Purchaser shall not be bound by any changes not expressly accepted by the Purchaser in writing. Unless the Seller has expressly rejected the Purchase Order or presented changes in writing to the Purchaser within 5 working days from the date the Purchaser has sent the Purchase Order to the Seller, the Seller shall be bound by the original Purchase Order.

## 3. OTHER TERMS AND CONDITIONS

Unless specifically agreed to in writing prior to delivery of the Goods and/or Services and unless referred to on the Purchase Order, the Seller's terms and conditions of sale (whether written or verbal), do not form part of the Agreement. The terms and conditions in a written agreement between the Seller and the Purchaser for the purchase of the Goods and/or Services issued in the Purchase Order, shall take precedence over these Terms whether or not referred to in the Purchase Order, unless specifically agreed otherwise in writing.

## 4. VARIATION

The Purchaser reserves the right at any time to vary the Purchase Order. If that variation causes an increase or decrease in the Price (excluding loss of profits) or a change to the agreed Delivery Date, the Seller will notify the Purchaser in writing within 5 business days of receipt of the variation. The Seller will in such case not effect the variation until the parties have agreed in writing on an adjustment to the Price or agreed Delivery Date. In the event the parties cannot agree, then clause 14 may be applied.

## 5. PRICE AND PAYMENT

All prices stated on the Purchase Order are fixed and firm, unless otherwise agreed in writing by the Purchaser. The price shall include the cost of delivery, cartage and freight, testing, certification, packaging, handling, storage, insurance, taxes, tariffs and duty and excise unless. The Seller shall render an invoice compliant with Purchaser's instructions from time to time to the Purchaser at delivery or at the end of each month during the period in which supply is provided and calculate the Price by reference to the prices, fees or other amounts specified in the Purchase Order. Provided the Goods and/or Services comply with the Purchase Order, payment will be effected within 60 days from the receipt of the correct invoice. All payments are made on account. Any settlement discounts or periodic rebates which are to

apply will be clearly stated in the invoice. No minimum order or invoice value will be accepted by the Purchaser.

## 6. GOODS

The Seller is totally responsible for the design, supply of materials, fabrication, testing, packaging, loading onto and off transport and delivery of Goods in accordance with the Agreement (including without limitation the Purchaser's specification and applicable legal requirements) unless otherwise agreed in writing. The Purchaser will have the right to verify at the Seller's premises that the Goods conform to the Purchase Order. That verification does not relieve the Seller of its responsibility to provide Goods of a merchantable quality nor does it preclude subsequent rejection by the Purchaser. Nonconforming or substitute Goods will not be accepted without the Purchaser's written authority. All drawings, patterns, tools or other items specifically prepared to produce the Goods remain the Purchaser's property and will be delivered to Purchaser upon demand.

## 7. SERVICES

The Seller must perform the Services:

- in accordance with the Purchase Order (including without limitation the Purchaser's specification) and applicable legal requirements (including without limitation obtaining any necessary qualifications, licences, registrations and permits);
- with due care and skill and in a professional, punctual and diligent manner;
- as directed by the Purchaser and following Sandvik's local EHS policy/quidances; and
- using the personnel specified in the Purchase Order.

## 8. TIME AND DELIVERY

Adherence to the Delivery Date is an essential part of the Agreement. Goods shall be forwarded to the delivery location, and Services must be completed in accordance with the Purchase Order requirements. Should it be necessary to utilise premium freight to meet the agreed Delivery Date, any associated costs will be at the Seller's expense. Part delivery may be accepted if agreed in writing. Upon the occurrence of any event (including a force majeure event) likely to affect the agreed Delivery Date, the Seller will immediately give the Purchaser written notice of the event and take all steps to minimise the delay. The Purchaser may then at its sole discretion either:

- request the Seller to supply the Goods or complete the Services by a mutually agreed alternative Delivery Date;
- claim liquidated damages at a rate of 2% of the purchase price of the delayed Goods or Services calculated for each completed week of delay. The liquidated damages shall not exceed 20% of the purchase price of the delayed Goods or Services; or
- cancel the Purchase Order.

The Seller will be liable to the Purchaser for any loss or damage incurred or suffered by the Purchaser as a result of any delay of Goods and/or Services.

## 9. PACKING, LABELLING AND TRANSPORT

The Seller shall properly pack, mark, and provide transport documentation for the Goods in accordance with instructions provided by the Purchaser.

The Seller shall further provide all documentation required by the carriers involved and by the authorities of the country of destination and any other country in relation to which such documentation would be required.

## 10. FINAL INSPECTION

All Goods and Services shall be considered to be received, subject to Purchaser's inspection within a reasonable time period, but in no event less than 14 calendar days, after delivery at the delivery location or completion (as the case may be). If requested, certificates of inspection, testing or other documents evidencing compliance (including Quality Assurance documents) shall be supplied by the Seller to the Purchaser. If upon inspection:

- the Goods or Services do not conform with this Agreement; or
  - the quantity and quality requirements, are defective, unsatisfactory, or unfit for the required purchase,
- the Purchaser may reject the Goods and/or Services. Payment for Goods or Services prior to inspection does not constitute acceptance of unsatisfactory or defective Goods or

Services. Upon rejection of Goods or Services, the Seller will (at the election of the Purchaser):

- in the case of Goods, replace/rectify the rejected Goods within 14 calendar days or reimburse Purchaser for the price paid and any costs associated with the return of the Goods; or
- in the case of Services, reperform the Services or reimburse Purchaser for the price paid.

This clause 10 shall not in any way limit Purchaser's rights and Seller's obligations under clause 13.

## 11. TITLE

The Seller warrants that the Seller has title in the Goods and that the Goods are free and clear of all liens, encumbrances, restrictions, and other claims against title of ownership. Title in the Goods will pass from Seller to Purchaser on delivery to the delivery location specified on the Purchase Order. Where part payment for Goods is made by Purchaser, title to the partly completed Goods and any material/parts to be used in their manufacture or assembly will pass to Purchaser.

## 12. RISK

The Goods remain at Seller's risk until the Goods have been delivered to the delivery location specified on the Purchase Order.

## 13. WARRANTIES AND INDEMNITIES

The Seller warrants that it will perform all of its obligations hereunder in conformity with applicable legal requirements, including without limitation any applicable environmental and safety laws, orders or regulations.

The Seller warrants that the Goods will conform to its description (and/or sample if applicable), this Agreement, be free from defects and of good and merchantable quality. Unless the parties have agreed on more beneficial warranty conditions for the Purchaser, the Seller will make good any defects which arise from defective design, material or workmanship or from any act or omission of the Seller, which appear within twelve (12) months of putting the Goods to use. The Purchaser undertakes to notify the Seller before any rectification work is undertaken on such Goods and will either:

- give the Seller reasonable opportunity to inspect and rectify the defects at the Seller's cost; or
- obtain authorisation from the Seller to arrange rectification at the Seller's cost; or
- return the defective Goods to the Seller and receive a refund of the cost from the Seller for the defective Goods; or
- request the Seller to replace the Goods at the Seller's expense.

The Seller warrants that the Services and the result thereof will conform to this Agreement and be free of any defects in workmanship. The Seller warrants that its personnel providing the Services possess and will use the specific skills, qualifications and experience required for the Services. Unless the parties have agreed on more beneficial warranty conditions for the Purchaser, the Seller will make good any defects which arise from defective design or workmanship or from any act or omission of the Seller, which appear within twelve (12) months of completing the Services. The Purchaser undertakes to notify the Seller before any rectification work is undertaken on such Services and will either:

- give the Seller reasonable opportunity to inspect and rectify the defects at the Seller's cost;
- obtain authorisation from the Seller to arrange rectification at the Seller's cost; or
- request a refund of the cost from the Seller for the defective Services.

These warranties are in addition to all other warranties, express or implied. The Seller shall indemnify the Purchaser against any loss, claims or damages arising from or in connection with any failure to fulfill this warranty.

## 14. CANCELLATION

In the event of a breach by Seller of the Agreement (including without limitation the Delivery Date), the Purchaser may (without prejudice to its other rights) cancel any Goods (or part of Goods) which are not yet delivered or Services (or part of Services) which are not yet completed without entitling the Seller to any compensation. Upon receipt of a cancellation notice, the Seller must cease to manufacture the Goods, deliver the Goods and/or perform the Services (as the case

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may be) and mitigate its costs. The Purchaser will be obliged to pay any expenditure reasonably incurred prior to cancellation which is directly attributable to placing the Purchase Order and not otherwise recouped by Seller for such Goods or Services. Upon that payment, title in property, material/parts and incomplete Goods passes to Purchaser. The Purchaser may also exercise its rights under this clause where:

- (a) the Seller suffers an event of insolvency; or
- (b) the Seller does not comply with clause 23; or
- (c) any other matter occurs that may affect the Seller's ability or capacity to supply the Goods or Services to the Purchaser.

### 15. SUBCONTRACTORS

The seller is responsible of regularly or as agreed informing the purchaser in writing about the subcontractor and subsupplier network.

The Seller is responsible for the acts and omissions of its subcontractors and sub-suppliers.

The Seller is responsible to comply with The Act on the Contractor's Obligations and Liability (Tilajavastuulaki).

### 16. RIGHT TO OFFSET

The Purchaser (without prejudice to its other rights), will be entitled from time to time to deduct from any amounts due or owing by Purchaser to Seller in connection with any Purchase Order or contract with Seller any and all amounts owed by Seller to Purchaser.

### 17. INTELLECTUAL PROPERTY RIGHTS

Any intellectual property rights in and to the Goods and/or Services shall not in any way limit the Purchaser's right to use the Goods and/or Services in any manner.

The Seller grants to Purchaser and any third party using the Goods a perpetual, fully paid up, global, right to use the Goods for its intended purposes, including any and all rights necessary to amend, develop, repair, support and maintain the Goods and to integrate the Goods with or into other products and to take any other action or measure which is required therefor. Any back ground intellectual property rights owned by the Seller shall remain ownership of the Seller unless otherwise agreed.

The Seller grants to Purchaser upon delivery a perpetual, global, non-exclusive, fully paid-up right to use the result of the Services for its intended purposes, including any and all rights necessary to amend, develop and assign the result of the Services.

Except as required to carry out its obligations under the Agreement, the Seller shall not at any time acquire or have been granted a right to use any intellectual property rights belonging to the Purchaser.

The Seller warrants that the Goods and/or Services, or the use or transfer thereof, shall not infringe or cause Purchaser to infringe any intellectual property rights of any third party.

The Seller further warrants that none of the materials, tools, methods or processes used in manufacturing the Goods or performing the Services shall infringe any intellectual property rights of any third party.

The Seller shall indemnify and hold Purchaser its affiliates and its agents and employees, and anyone selling or using any of the Goods and/or Services harmless in respect of any and all claims, damages, costs and reasonable expenses arising out of or in connection with any claims alleging infringement of any intellectual property rights of a third party related to the Goods or Services.

### 18. PRODUCT LIABILITY

The Seller shall indemnify and hold Purchaser harmless from any liability to pay damages as well as other costs (including reasonable legal fees) in connection with any claim, suit or other dispute initiated by a third party (e.g. an employee) against Purchaser for product liability in relation to the Goods.

### 19. INSURANCE

The Seller must keep the Goods insured against all risks for goods of that kind. The Seller shall hold and maintain general liability insurance for the minimum amount of EUR 1,000,000 per event to cover the Seller's responsibilities under law and each Agreement. A certificate of such insurance shall be

provided to Purchaser upon request.

### 20. CONFIDENTIALITY

The parties agree to keep confidential all information, data, drawings, specifications and documentation which are disclosed to or obtained by the parties and their respective affiliates (including any affiliate of the Sandvik Group) and to disclose confidential information only to employees, subcontractors, sub-suppliers, consultants, advisors or affiliates (including any affiliate of the Sandvik Group) who have a need to know the information for the performance of the Agreement. The confidentiality obligations shall, however, not apply to any information which (i) is already in the public domain or becomes available to the public through no breach of this Agreement; (ii) was already in the party's or its affiliates (including any affiliate of the Sandvik Group) possession prior to entering into this Agreement without confidentiality obligation, as proven by written records; or (iii) a party is required to disclose by law or by a governmental or administrative agency or body or decision by a court of law, but then only after first notifying the other party of the required disclosure.

### 21. SEVERANCE

If any provision of the Agreement is void or unenforceable, the provision shall be severed from the Agreement to the extent it is void or unenforceable without affecting the validity or enforceability of the rest of the Agreement.

### 22. ASSIGNMENT

The Seller is not permitted to assign all or any part of the Purchase Order without the prior written consent of the Purchaser. The Seller acknowledges that no permitted assignment in any way relieves the Seller from the performance of its obligations under the Agreement. The Seller is not permitted to pledge its rights under the Agreement.

### 23. CODE OF CONDUCT

The Seller undertakes to comply with Sandvik Supplier Code of Conduct and Anti-Bribery laws (including the US Foreign Corrupt Practices Act and the UK Bribery Act 2010) in the performance of its obligations under the Agreement.

### 24. APPLICABLE LAW

The Agreement, including these Terms, shall be governed by the substantive laws of Finland without giving effect to its rules in conflict of law and expressly excluding the United Nations' Convention on Contracts for the International Sale of Goods (CISG).

Any dispute, controversy or claim arising out of or in connection with the Agreement shall be finally settled by arbitration in accordance with the Finnish Arbitration Act. The language to be used in the arbitral proceedings shall be Finnish. The place for such proceedings shall be Tampere, Finland. The arbitration proceedings, information disclosed during the arbitration proceedings and the result of such proceedings is subject to confidentiality.