

0421 Lotus Dev Denmark A/S English

GENERAL TERMS OF PURCHASE

1. AGREEMENT DOCUMENTS

Unless otherwise agreed in writing, this purchase order (PO) and the following general terms of purchase constitutes the complete agreement between Lotus and Supplier

2. PRICE

If price is not stated on the PO, Supplier shall invoice at the lowest market price prevailing on the date of the agreement. Lotus shall pay value added tax and, if the goods are delivered to Lotus outside the Nordic countries, customs duties. Supplier shall pay all other taxes and public charges. Lotus will not pay any invoice service charge. The price includes any packing charge, unless otherwise agreed.

3. TERMS OF PAYMENT

Unless this PO says otherwise, the terms of payment will be: 30 days from receipt of Supplier's invoice duly filled in. Swedish suppliers shall, if applicable clearly state approval for F-skatt on invoice. In case of delayed payment Lotus shall pay interest in accordance with the local Nordic laws. Lotus's payment is based on the condition that Lotus's PO Number is specified on the Supplier's invoice, which is mailed to the correct county:

Lotus Development Danmark A/S
C/O IBM Denmark A/S
Nymoellevej 91
DK-2800 Lyngby
Denmark

4. QUALITY

Supplier may not make any deviations from specifications, drawings or any other quality requirements without Lotus's prior written consent.

5. TRANSPORTATION

The goods shall be delivered Ex Works in accordance with DDP INCOTERMS 1990 unless otherwise agreed. Supplier will not use premium transportation unless specifically authorized by Lotus. Supplier will not include more than one daily shipment for any one destination on one bill of landing.

6. DELIVERY

Delivery shall take place on the date specified on the PO. Supplier shall at the earliest possible time inform Lotus if the specified time of deliver cannot be met, or it seems probable that the delivery will be delayed, and stat the reason for such delay and, if possible, the time when delivery can take place. If supplier fails to deliver on time, Lotus may demand performance or, if the delay is unacceptable, cancel the agreement. Lotus may also claim damages.

7.DOCUMENTATION

Delivery notes, containing information regarding Lotus's order number, quantity gross and net weight, detail number, number of cases shall accompany each deliver. Supplier shall state the address of delivery specified in the PO on the delivery notes as information to Lotus's shipping agent. Each case shall also be marked with the address of delivery, a unique case number, detail number and quantity of details. If more that one case is delivered at the same time, Supplier shall mark where the delivery note is to be found.

8.CERTIFICATES

Delivered goods shall always, when applicable, be accompanied by EUR- and UL/CSA-certificates or any other accredited test house within EU and upon request, by subcontractor certificates.

9.PATENT AND COPYRIGHT

Supplier warrants that the products and/or services do not infringe any patent, trademark, copyright or other intellectual property rights of third party. Supplier grants Lotus rights and licenses necessary for Lotus and it subsidiaries to use and sell the product/services sold hereunder and to exercise their rights under this PO Supplier agrees to defend, hold harmless, and indemnify Lotus from any claim arising from the failure of Supplier to comply with its warranties and obligations under this PO. IF a claim of infringement is made, the Supplier shall obtain for Lotus the right to continue to use and sell the Supplier's product/service or Supplier shall replace it with non infringing product/service.

10.ENVIRONMENTAL REQUIREMENTS

Supplier warrants: (I) Non of the products contain nor are any of the products manufactured using ozone depleting substance known as halons, chlorofluorocarbons, methyl chloroform and carbon tetrachloride as defined by the Montreal Protocol and specified in the EU Directive EC 3093/94 on "Substance that deplete the ozone layer", group I, II, III and IV. (II) All products provided to Lotus under this PO are new and donot contain anything used or reconditioned, unless Lotus agrees in writing.

11.YEAR 2000

Supplier warrants that the products or services specified in this PO: Support the Year 2000 and are capable of correctly processing, providing, receiving, displaying and exchanging accurate date data with all products with which the products are designed to be used within and between the twentieth and twenty-first centuries.

12.DEFECT OR DEFICIENCY

Lotus is not obligated to observe the limits otherwise applicable with respect to buyers obligation to examine the goods, but may give notice of any defect or deficiency when it is actually discovered. In case a defect or deficiency Lotus shall be entitled to demand repair, delivery of substitute goods, price reduction, have the goods repaired at Suppliers expense, or if the defect is unacceptable cancel the agreement. Lotus shall

furthermore be entitled to claim damages. If nonconforming goods are returned, Supplier will bear the risk and expense. Payment shall not constitute acceptance of the goods nor impair any of Lotus's above mentioned remedies.

13.TOOLS

Tools used by Supplier in the manufacture of goods under this agreement are to be repaired and maintained by Supplier at its expense. If supplier uses tools exclusively for the manufacture of goods ordered by Lotus, the provisions of a separate tooling agreement between Supplier and Lotus may apply to such tools.

14.EURO

Deliverables and Services are euro-ready such that they are capable of correctly processing, sending, receiving, presenting, storing, and converting monetary data in the euro denomination, respecting the euro currency formatting conventions (incl. the euro symbol), where applicable.

15.EQUIPMENT / PARTS

If Lotus provides Supplier on consignment in connection with this agreement, the provisions of a separate consignment contract between Supplier and Lotus shall apply to such parts.

16.SUBCONTRACTING

Supplier shall not assign its rights nor subcontract its duties without Lotus's prior written consent.

17.PUBLICITY

Supplier shall not, without Lotus's prior written consent, advertise or otherwise disclose that Supplier has furnished or agreed to furnish goods or services to Lotus under this agreement.

18.CONFIDENTIAL INFORMATION

All exchanges of information between the parties pursuant to this PO shall be considered non confidential, unless the parties have entered in to a separate written confidentially agreement.

19.EXPORT OF TECHNICAL DATA

Supplier agrees that, without a prior license or authorization issued by the US Government, no technical data received from Lotus nor the direct product thereof shall be provided to any country that is embargoed by the US Government or proscribed by COCOM (Co-ordinating Committee for Multilateral Export Control) and/or to any nationals thereof.

20.GIFTS

Supplier shall not make or offer a gratuity or gift of any kind to Lotus employees or their families that could be viewed as relating to an an actual or potential business relationship with Lotus.

21. GROUND FOR EXEMPTION

Neither party will be responsible for failure to fulfill its obligations due to matters beyond its control and which could not reasonably have foreseen when the agreement was entered into and the consequences of which could not reasonably have avoided. A party, who wishes to refer to such a circumstance, may without delay notify the other party of its appearance and its cessation.

If the fulfillment of the obligations is delayed more than three months due to such circumstance and party may, without any liability to pay damages, terminate this agreement by written notice with immediate effect.

22. TERMINATION

Either party shall have the right to terminate this agreement with immediate effect if

- a) the other party would breach the agreement in any material respect or,
- b) the other party should enter into bankruptcy, composition proceedings, or liquidation, either voluntary or compulsory, or should stop its payment or should otherwise be considered to be unable to pay its debts as they become due.

23. ASSIGNMENT OF AGREEMENT

Supplier may not assign this agreement without Lotus's prior written consent. No right that Lotus has regarding this agreement may be waived or modified except by Lotus in writing.

24. ACTION

No action, regardless of its form, arising out of this agreement, may be brought by either party more than two years after the cause of action has arisen, or, in the case of an action for non-payment, more than two years from the date the last payment was due.

25. GOVERNING LAW

Local laws of the Nordic country in which this transaction is performed shall govern this agreement. Supplier shall at all times comply with all applicable laws, rules and regulations.

26. ARBITRATION

Any dispute in connection with this agreement shall finally be settled by