



Standard Terms and Conditions of Purchase of F+E Fischer+Entwicklungen GmbH & Co. KG

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Preamble:

Fischer + Entwicklungen GmbH & Co. KG (referred to hereafter as „F+E“) is a leading manufacturer of crashworthy seats for the aviation- / helicopter industry. The products of F+E are designed, manufactured, tested and delivered in a very high industrial standard. Should they fail or be defective this could have very crucial consequences for the life or physical health of passengers, and for the aircraft to function properly. The parties are in agreement that the components required/ordered or to be manufactured constitute specialist components that are particularly important to the aviation/helicopter. They carry weight within the finished product. The supplier will exercise high reasonable care for the components required/ordered by F+E.

1. Principal conditions and area of application: direct goods, means of production, indirect goods, services

- a) The contractual relationship between suppliers of F+E in respect of the purchase of direct goods (serial parts), means of production (meaning machinery, equipment, apparatus, tools etc.), indirect goods (i.e. goods which are not used directly for manufacture) and services shall be regulated by these standard terms and conditions and any other agreements. All amendments or additions must be made in writing. These standard terms and conditions shall apply to the exclusion of all other terms or conditions. We do not accept differing terms or conditions of the supplier; this provision shall also apply where goods as accepted unconditionally. F+E does not accept adverse terms or conditions notwithstanding that F+E may not have expressly objected to such adverse terms or conditions, nor shall F+E accept them by reference to correspondence with the contractual counterparty which refers to such adverse terms or conditions. The standard terms and conditions of purchase shall apply to all contracts and future business relationships with suppliers regardless of whether their application is expressly reaffirmed or not. In addition the statutory provisions (notably the German Civil Code (BGB) and the German Commercial Code (HGB)) shall apply. Any provisions or regulations referred to by F+E shall apply as currently in force. In the event that F+E's factory regulations and guidelines, which form the basis of the contract and which apply as currently in force, are not to hand, suppliers may request a copy thereof at any time.
- b) The following standard terms and conditions shall apply to all of our contracts (to the exclusion of all other terms and conditions), which will usually be in the form of service contracts (such as for planning or programming jobs etc.), as well as to all other contracts agreed in connection herewith, unless more specific regulations have been agreed. This will always be the case in respect of individual contracts.
- c) If a contract for the performance of works and services has been concluded alongside a contract for the delivery of goods, and special regulations have been agreed with F+E in this respect of such umbrella contracts, then these standard terms and conditions of purchase shall not apply where in conflict therewith.

2. Conclusion of the contract

- a) Orders placed by F+E shall not be binding unless specific binding deadlines have been agreed in individual cases. Contracts will as a general rule be based on a binding quotation by the supplier, which F+E shall not be deemed to accept until a written order is placed. As a general rule there will be no need for the supplier to confirm in writing that it has received F+E's acceptance of the offer in order for the contract to be concluded, however the supplier must nevertheless send an order confirmation to F+E. The order confirmation must be received by F+E within three working days from the date on which the order was received by the supplier.
- b) Should the supplier be unable to duly perform the contract on time then the supplier shall notify F+E (as described above) of this in writing within three working days after receipt of the order. Notification should be sent to the Purchasing Department (Abteilung Einkauf).
- c) F+E may require reasonable additions or amendments to be made at any time before the contract has been performed in full by the supplier. The same shall apply in respect of additions or amendments in respect of the model, design (e.g. index amendments on the basis of security-related components), format or delivery time. The consequences hereof (e.g. extra or less costs; delivery dates) shall be dealt with appropriately by mutual agreement.
- d) The supplier shall send F+E a revised order confirmation without delay if any changes have been made. In the event of any price changes a revised offer shall be drawn up and sent to the relevant contact in the Purchasing Department at F+E. Express reference should be made to any increase in

costs resulting from the amendments.

- e) Any changes in price which are notified to F+E by means of a revised order confirmation which is not in the same form as the original order confirmation will not as a general rule be accepted. Changes in prices must be documented by means of a written offer.
- f) The supplier may only conclude subcontracts with subcontractors after written permission of F+E. In such case all relevant documentation must be passed on to the subcontractor. In the event that the supplier ceases to make payments, or a petition for insolvency proceedings in respect of its business is made, or some other serious reason exists, then F+E shall without prejudice to any other rights be entitled to rescind that part of the contract that has not yet been performed.
- g) Contractual terms agreed with the supplier shall as a general rule be open ended unless a specific termination date has expressly been agreed in writing.

3. Delivery dates

- a) The delivery period quoted in the order documentation is binding. The supplier shall notify F+E without delay if it has reasons to believe that it may not be able to keep to the agreed delivery dates at all or in due time; such notification must contain reasons for the delay and details of the anticipated duration of the delay.
- b) In the event of any delay in delivery, F+E may charge a fixed interest penalty of 0.1% of the value of the goods to be delivered (net excluding value added sales tax) for each working day by which the delivery is delayed; however, F+E may not charge more than 5% as a fixed penalty. The supplier shall have the right to provide evidence to F+E that no loss or only an immaterial loss has been suffered as a result of the delay. We reserve all rights to make statutory or contractual claims (and in particular for damages as a result of breach of contract). Deliver dates or dates on which a service is to be performed, as well as corresponding deadlines, must be notified in writing; they shall be deemed to have been adhered to provided the item of delivery is received by F+E before expiry of the relevant deadline in accordance with the terms of the contract. The supplier shall ensure that it always uses the means of despatch and form of transport that is cheapest and most suitable for F+E. Each delivery must be accompanied by a delivery note (when goods are being transported by ship the delivery note must state the name and address of the shipping company and of the ship). Order references and details of unloading sites provided by F+E must be stated in full on all documentation (and in particular on invoices, delivery notes, despatch notes, packing slips, consignment bills and on the exterior of any packaging). Hazardous or dangerous materials must be packaged, labelled and despatched in accordance with national and international regulations. The details contained in any accompanying documentation must conform to national regulations. The supplier is responsible for adhering to these duties and for ensuring that its subcontractors also adhere to them. The supplier is liable for any damage or expenses incurred as a result of any breach of its duties. Any packages that cannot be accepted as a result of a breach of the aforementioned duties will be stored at the expense and at the risk of the supplier. F+E will be entitled to ascertain the content and state of such packages. The relevant rules applicable to the taking back of packaging will be determined in accordance with the applicable Packaging Regulations (Verpackungsverordnung).

4. Delivery and transfer of risk

- a) The supplier shall deliver the goods to F+E's place of business, as stated in the order documentation, or to the agreed delivery address.
- b) Unless otherwise agreed, risk will pass at the moment in which F+E accepts the delivery and confirms receipt thereof.
- c) F+E will not be liable under § 377 of the German Commercial Code (HGB) to inspect the goods for latent defects nor to give notification of latent defects. F+E will carry out a minimal inspection by reference to the delivery note and will inspect the goods for any damage sustained during transport; the supplier is obliged to carry out a final inspection in respect of the goods and, if requested, sign up to a quality assurance agreement with F+E.



- d) If there is no quality assurance agreement or there are patent defects in the goods then any notification of defects provided by F+E shall be deemed to have been submitted in due time if the supplier receives said notification within seven working days (not including Saturdays) from the date on which the goods were received, or in the case of any latent defect from the date on which the latent defect was discovered. Should the requirement for prompt notification contained in § 377 of the German Commercial Code (HGB) be more than seven working days then this longer statutory period shall apply.
- e) In the event of force majeure, industrial action, official action or any other unavoidable circumstances F+E will be exempt for the duration of the disruption from its duty to accept the goods and to make payment for the goods.

5. Acceptance of goods

- a) If the contract also covers (as a subsidiary service) the installation or assembly of the contractual goods then a formal acceptance of the goods will be necessary. This cannot be carried out until the testing phase has been successfully completed in accordance with separate conditions of F+E. In the event that no such separate conditions have been agreed, the contractual goods will be deemed to have been accepted once F+E has signed the certificate of readiness for operation provided by the supplier.
- b) Payment by F+E does not constitute acceptance of the contractual goods.

6. Quality and documentation

- a) If requested by F+E, the supplier shall provide details of the composition of the contractual goods insofar as they may be required in order to comply with official local requirements and those abroad.
- b) If F+E requires initial samples or patterns to be provided then the supplier shall not continue manufacturing the contractual goods until it has received written authorisation from F+E. In instances such as these the supplier shall remind F+E of this in writing. This applies in particular if a delay may result.
- c) If requested by F+E, the supplier shall (free of charge) provide F+E with the necessary aviation industry certifications, test reports and similar documentation for the supplier's materials and provide copies thereof to F+E no later than the date on which the corresponding delivery is made.
- d) When F+E acquires a new supplier, and this supplier be providing components which will be used in mass production, a quality assurance agreement that incorporates the requirements of AS/EN9100 must be concluded within six months.
- e) In the event that the supplier employs a subcontractor, the supplier must ensure that provided all relevant documentation (e.g. forms and procedures stipulated by F+E) is passed on to the subcontractor.

7. Payment and assignment

- a) The price quoted in the order documentation shall be binding. Payment will not be made until after the contractual goods have been received in accordance with the contract and where applicable once these have been successfully accepted, and F+E has been provided with a proper auditable invoice. If payment is to be made in instalments this will be agreed separately for the relevant contract.
- b) Any deliveries made in advance of the agreed delivery date will not be deemed to be due for payment until the actual agreed delivery date.
- c) If it has been agreed that prepayments be made then the supplier must, if required, provide a bank guarantee for this.
- d) Payment will as a general rule be made after 30 days less a 3% discount, or net after 60 days, payable by bank transfer or cheque. Payment deadlines and cash discount periods will run from the date of receipt of the invoice, but in any event will not commence before the date on which the goods are delivered, or the date on which the service is performed and accepted, or the date on which documentation as agreed in the contract, or any other documentation, has been provided in full. If the supplier has more favourable payment conditions then these shall be applicable, but this will not constitute acceptance of any of the supplier's other standard terms or conditions. Payment will be deemed to have been made in due time if the cheque is posted on the date on which payment is due or the bank transfer is commissioned at the bank or post office on the date on which payment is due.

- e) The supplier shall not be permitted to assign its debt claims to any third party without the written consent of F+E.
- f) F+E shall have the usual rights of set off or retention as permitted by statute.
- g) Invoices shall be issued in accordance with the details provided on the order documentation. In particular invoices must contain F+E's order number, the exact company name, the correct invoice address, terms of payment and of delivery and the date on which performance was made. Payment will not be made until an invoice has been received which complies with all of the aforementioned requirements.

8. Warranty; product liability; replace goods; insurance

- a) The statutory provisions governing material defects and defects of title shall be available to F+E in full. The supplier is responsible for ensuring that the contractual goods comply with all contractual and statutory requirements and that they do not have any defects. The contractual goods must comply with all current rules in respect of both science and technology as well as with the relevant environmental, health and safety and accident prevention regulations. F+E will be entitled to elect whether it should like the defect to be remedied or whether it would prefer to require delivery of defect-free replacement goods (subsequent performance); all costs incurred in this respect must be borne in full by the supplier. In addition, F+E shall be entitled to claim for statutory damages in full and without limitation. Acceptance by F+E of goods or of a sample or specimen will not automatically relieve the supplier from liability for defects.
- b) The limitation period for claims is two years from the date of delivery unless statute provides for longer limitation periods. If new contractual goods are delivered within the scope of subsequent performance then the limitation period will recommence from that subsequent date, provided this constitutes an admission of the supplier's duty to provide subsequent performance. The same shall apply in the case of any remediation of defects for that part of the contractual goods that has been remedied.
- c) In the event that there is a contract for services, the statutory limitation period will commence on the date of acceptance of the goods.
- d) In urgent cases (e.g. if there would be a danger is delaying or if there is a particular urgency) F+E shall be entitled to remedy the defect itself and charge the supplier for this. A case will be deemed to be urgent if it is not possible to notify the supplier and allow an (albeit short) period of grace for subsequent performance.
- e) As a general rule F+E will not accept any limitations of liability of the supplier with regard to warranties, product liability and the like.
- f) The supplier shall, if requested, confirm that the following insurance-related requirements have been met and/or provide evidence thereof:
- product liability, with details of the maximum insurance caps;
 - public liability, with details of the maximum insurance caps; and
 - the supplier's accident insurance, if applicable, for its employees in relation to any activities carried out at F+E, with details of the maximum insurance caps.

9. Claiming damages

- a) Should any claim be made against F+E in respect of any defect in any contractual goods delivered by the supplier, whereby such claim is made on the grounds of any manufacturer's liability, product liability or other liability, the supplier will indemnify F+E against any liability resulting from the defect insofar as the defect is the supplier's responsibility. The indemnity is to be provided on first demand.
- b) Within this scope of this the supplier is also obliged to reimburse any expenses incurred in accordance with § 683 and/or § 670 of the German Civil Code (BGB) or § 830, § 840 and/or § 426 of the German Civil Code (BGB), which have arisen in connection with any product warning or product recall campaign. F+E will notify the supplier without delay, as is reasonable and possible, of the content and scope of any such campaign. We reserve the right to make further statutory claims.



- c) Should any claim be made against F+E in respect of any defect in any contractual goods delivered by the supplier, F+E shall have a right to claim full damages against the supplier in accordance with § 478 of the German Civil Code (BGB); the only exemption to this will be if we have previously been granted adequate compensation for our right to claim damages.
- d) All other claims or rights as against the supplier shall not be affected by these provisions.

10. Rescission and overall liability

- a) It is not intended that the supplier's statutory right to rescission be excluded or limited. Likewise, it is not intended that any of F+E's statutory or contractual rights or claims be excluded or limited.
- b) F+E will be liable without limit for intentional damage and gross negligence (and for its legal representatives and agents in this respect) as well as for any injury to life, limb or health. F+E will also be liable without limit in respect of any guarantees or assurances given if a defect that is covered by any such guarantee or assurance triggers the liability of F+E. There is no limit to F+E's liability in respect of any statutory offences involving hazards.
- c) In the event of any other culpable breach of material contractual duties (cardinal obligations) F+E's remaining liability will be limited to foreseeable damage as would be typical for this type of contract.
- d) F+E's will not be liable on any other legal grounds (in particular claims resulting from any breach of main or subsidiary duties under the contract, illegal acts or any other tortious act).
- e) The same exclusions, limitations and exemptions apply to claims resulting from any fault at the time the contract was concluded.
- f) This § 10 shall apply mutatis mutandis to any claim for reimbursement of expenses.
- g) Any exclusion or limitation of F+E's liability under this contract shall also apply in respect of its legal representatives and agents.
- h) It is not intended that the burden of proof be reversed. Cardinal obligations are material contractual duties, i.e. duties which give the contract its substance and on which the contractual parties can rely. Cardinal obligations therefore are those material rights and duties which are prerequisites for fulfilment of the contract and which are indispensable for the achievement of the purpose of the contract.

11. Industrial property rights

- a) Should any claim be made against F+E notwithstanding that the contractual goods have been used in accordance with the contract, then the supplier will be liable to F+E depending in its degree of fault for any breach of industrial property rights and/or any application for the protection of industrial property rights (industrial property rights).
- b) The supplier shall indemnify F+E against all claims resulting from the use of such industrial property rights, provided the supplier did not manufacture the contractual goods according to specifications provided by F+E and provided the supplier did not realise when developing the contractual goods that it would constitute a breach of industrial property rights. This shall not affect any other rights to claim damages that F+E may have.
- c) If requested, the supplier shall provide details to F+E of all industrial property rights that are known or become known to the supplier and which are used by the supplier in connection with the contractual goods that are to be delivered or have already been delivered.

12. Special provisions in respect of appliances provided by F+E

- a) Any appliances made available to the supplier by F+E (such as dies, gauges, templates, samples, tools, drawings and the like) must not be used for deliveries to third parties without the prior written consent of F+E. They shall be returned to F+E when requested.
- b) Any appliances that have been made available to the supplier by F+E, or which have been manufactured in accordance with specifications provided by F+E, must not without F+E's express prior consent be duplicated, sold, given as security, charged or used in any other manner for any third party. The same applies to any contractual goods manufactured using these appliances.

13. Confidentiality

- a) The supplier hereby undertakes to treat as trade secrets all non-public commercial or technical details which become known to the supplier as a result of its business relationship with F+E. If requested by F+E, the supplier shall sign up to a separate confidentiality agreement.
- b) Drawings, models, templates, samples and the must not be provided to any third party nor made available to any third party in any other manner. Duplication of any such objects is only permitted within the scope of business requirements and copyright provisions. Subcontractors must provide corresponding covenants.
- c) If the supplier uses subcontractors to perform contracts for F+E then the supplier must sign up to a confidentiality agreement with its subcontractors.
- d) The supplier must not use the business relationship with F+E for advertising without having obtained the prior written consent of F+E.

14. Retention of title

- a) F+E shall retain title to any components provided to the supplier by F+E.
- b) The retention of title shall also apply in respect of the full value of any goods produced by means of processing or modification of any of F+E's goods, whereby such processing or modification shall be deemed to have been carried out on behalf of F+E such that F+E is deemed to be the manufacturer. In the event that any third part ownership rights continue to exist following the processing or modification of F+E's goods with other goods then F+E shall acquire part ownership in proportion to the objective value of the goods. In the event that any of F+E's goods are mixed or combined with other goods, F+E shall likewise acquire part ownership prorata as described above. If the process is such that the supplier's goods are deemed to be the main product then the supplier hereby agrees to transfer part ownership in the goods prorata to F+E. The supplier shall store F+E's property with the usual due care.

15. General provisions

- a) The supplier must label all contractual goods in the manner as specified by F+E.
- b) Unless otherwise agreed, this contract is governed German law. The provisions of the UN CISG are excluded from this contract.
- c) If the customer is also a merchant, legal entity governed by public law or special asset under public law then F+E's place of business will be the place of exclusive jurisdiction. The same shall apply if the supplier does not have an address for service within Germany or the supplier's usual place of business has been moved abroad since conclusion of the contract. F+E may also bring a claim against the supplier in any other permissible jurisdiction.
- d) Unless otherwise agreed in writing, the supplier's place of business will be the place of performance.
- e) Should any of the provisions of these standard terms and conditions of purchase, or any provision relating to any other agreement, be or become invalid then this shall not affect the validity of the remaining provisions of these standard terms and conditions of purchase. The contractual partners hereby undertake to replace the invalid provision as is reasonable with a provision that matches the economic purpose of the invalid provision as closely as possible.
- f) If requested, the supplier must disclose how it calculated its offer.
- g) Unless otherwise agreed, all documents and offers shall be provided in German. As a general rule the contractual language is German.
- h) F+E and its customers and any relevant authorities (e.g. the German Federal Office for Aviation (Luftfahrtbundesamt)) shall be entitled to enter the supplier's place of business for verification (e.g. audit) purposes.
- i) The supplier has a duty to obtain all necessary manufacturing documentation and copy regulations. Should the supplier not be in possession of the relevant current documents (e.g. the current drawing index) then the supplier will be obliged to request these from F+E.