

Terms and Conditions for the Purchase of Goods effective from 21.8.2023 ("T&C")

I. Subject of Purchase

1.1. By concluding a contract between the Seller and the Buyer ("The Parties"), the Seller undertakes to hand over to the Buyer an item ("Subject of Purchase") specified in deeper details in the contract, which includes these T&C ("Contract"), and to allow them to acquire ownership of it. The Buyer undertakes, under the conditions laid down in the Contract, to take over the Subject of Purchase and pay the Seller the purchase price.

1.2. The ownership right and the risk of damage to the Subject of Purchase passes to the Buyer at the moment of take-over of the Subject of Purchase by the Buyer. At the same time, the Seller shall transfer to the Buyer all rights necessary for the proper use and handling of the Subject of Purchase.

1.3. Unless otherwise agreed in the Contract, the Seller shall hand over the Subject of Purchase new, unused and further in the agreed quantity, with the agreed characteristics, in the highest quality, without any damage, fully functional, free from all defects and with all rights necessary for its proper use and for the handling of the Subject of Purchase.

1.4. The Seller is obliged to comply with Regulation No 1907/2006 concerning Evaluation, Authorisation and Restriction of Chemicals (REACH), as amended, Regulation No 1272/2008 on classification, labelling and packaging of substances and mixtures, as amended. Furthermore, the Seller is obliged to hand over updated safety data sheets to the Buyer in case that conditions for its update has been fulfilled and inform the Buyer about the SVHC content of the substance that is present in the mixture at a concentration equal to or greater than 0,1 % by weight.

1.5. The Seller shall comply with requirements and principles arising from Law, Contract or any relevant certification, e. g. AS/EN 9100.

II. Delivery and Take-over of the Subject of Purchase

2.1. The Seller shall deliver the Subject of Purchase to the address of the Buyer's registered office DAP (INCOTERMS 2020) on the date specified in the Contract or, if not specified, without undue delay.

2.2. Before the delivery date, the Seller is entitled to deliver the Subject of Purchase only with the Buyer's consent.

2.3. The Seller shall forward to the Buyer, together with the Subject of Purchase, also a delivery note containing the following information: (i) identification of the Seller, including telephone connection to the contact person, (ii) identification of the Buyer including the name of the contact person, (iii) the number of the delivery note and of the Contract, (iv) technical identification of the Subject of Purchase, serial number and lot number, (v) the Subject of Purchase number and the warehouse number specified in the Contract and (vi) the date of issue of the delivery note.

2.4. The Seller is obliged to notify the carrier of any specific mode of transport of the Subject of Purchase, if required.

2.5. Without breach of the Contract, the Buyer is entitled to refuse to take over the Subject of Purchase if, according to their assessment, it suffers from any defects. If the Buyer refuses to take over the Subject of Purchase for the stated reason, the Seller is obliged to replace the Subject of Purchase with a new one, within 7 days at the latest.

III. Price; Maturity and Invoicing

3.1. The price of the Subject of Purchase shall be final and shall include all costs of the Seller associated with the delivery and handover of the Subject of Purchase (in particular the costs of transport, packaging, assembly, installation or creation). Unless otherwise specified in the Contract, the price is stated without VAT and VAT will be added to the price in accordance with the applicable legislation. Each Party shall pay its bank charges.

3.2. The price of the Subject of Purchase shall be due on the basis of an invoice issued by the Seller and delivered to the Buyer not sooner than after the take-over of the Subject of Purchase by the Buyer. The invoice shall meet all the requirements of the tax document within the meaning of the relevant legislation in force in the territory of the Czech Republic and shall contain materially correct and sufficiently detailed information (including the number of the Subject of Purchase referred to in the Contract) in relation to the performance provided. The Buyer is entitled to return the invoice to the Seller if it does not contain all the requirements. By delivering a new, properly issued invoice, a new due date begins to run.

3.3. The invoice shall not be due sooner than 60 days after the invoice is delivered to the Buyer. The debt is fulfilled by debiting the relevant amount from the Buyer's bank account.

3.4. If, in accordance with Act No. 235/2004 Coll., on value added tax, as amended, the Seller (i) by decision of the tax administrator is designated as an unreliable payer; or (ii) requires payment for taxable performance provided under the Contract to a bank account that is not disclosed by the tax administrator in a way that allows remote access, or a bank account to an account maintained by a payment service provider outside the Czech Republic; the Buyer is entitled to pay only the price of the Subject of Purchase without VAT to the Seller's bank account. If VAT is charged and if it is included in the payment by the Buyer, the Buyer is entitled to pay the VAT on behalf of the Seller to the account of the relevant tax administrator. In such a case, the Buyer's debt to the Seller is deemed to have been fulfilled and the Seller is not entitled to apply interest on late payment or contractual penalties.

IV. Rights from Defective Performance; Liability for Detriment

4.1. The Seller declares that the Subject of Purchase will keep the agreed characteristics and quality for a period of 48 months beginning on the date of take-over of the Subject of Purchase by the Buyer.

4.2. The Buyer is obliged to notify the Seller in writing of a defect in the Subject of Purchase that occurred during the warranty period according to point 4.1. T&C after its detection. The Seller shall remove the defect no later than within 30 days from the date of notification of the defect. For the avoidance of doubt, it is stated that the elimination of a defect shall mean a delivery of a new Subject of Purchase of the corresponding characteristics and without defects, a delivery of the missing item, a repair leading to restoration of the full functionality or the complete elimination of the legal defect. If the defect has been eliminated by the delivery of a new Subject of Purchase, its warranty period shall be 48 months.

4.3. In the event that the transport of the Subject of Purchase for the purpose of removing the defect is ineffective, the repair will be carried out at the place where the Subject of Purchase is located. The Seller bears all costs associated with the repair at the place of repair, including travel expenses.

4.4. Structural defect. If the Buyer has purchased from the Seller multiple Subjects of Purchase of the same specification and if at least 10% of them (but at least two pieces) in each calendar year have the same defect, all supplied Subjects of Purchase of the given specification shall be considered defective. The rights from such defective performance shall not expire sooner than by the expiry of the 10-year period starting by the date of take-over of the Subject of Purchase by the Buyer.

V. Commitment Confirmation

5.1. In case of breach of the Seller's obligation under points 2.1., 2.5. or 4.2. of the T&C, the Seller shall pay to the Buyer a contractual penalty in the amount of 0.05% of the price of the Subject of Purchase for each even commenced day of delay.

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5.2. In case of breach of the Seller's obligation under point 8.1. of the T&C, the Seller shall pay to the Buyer a contractual penalty in the amount of 30% of the value of the Contract.

5.3. The contractual penalty is payable at the Buyer's request. The exercise of the right to payment of the contractual penalty or its payment shall be without prejudice to the right to claim full compensation for the detriment.

5.4. Termination of the Contract shall not affect the Parties' claim for compensation for detriment, payment of a contractual penalty or other claims which, by their nature, are to continue even after the termination of the Contract.

5.5. In addition to the rights of defective performance, the Buyer is entitled to claim for compensation for detriment including, for the avoidance of doubt, also lost profit related to the suspension or delay of the Buyer's production due to a defect in the Subject of Purchase.

VI. Export Control

6.1. If export or import licenses are required for the delivery of the Subject of Purchase, the Seller is obliged to ensure the export license and the Buyer is obliged to ensure an import license.

6.2. The Seller undertakes to strictly comply with all applicable export control legislation and to establish its effective internal system of compliance therewith. In particular, the Seller undertakes to provide the Buyer with all assistance in obtaining export or import licenses, in particular to ensure making of the End User Certificate (EUC) or International Import Certificate (IIC) and shall work closely with the Buyer to eliminate as soon as possible the defective condition in case of any breach of any violation of any export control rule. The Seller shall ensure demonstrable compliance with these obligations in relation to the Seller's subcontractors and shall provide written evidence of this to the Buyer at the Buyer's request.

6.3. Without breach of the Contract, the Parties are not obliged to comply with the Contract to the extent affected by the administrative restrictions in the area of export/import control not caused by the Party concerned (e.g. withdrawal of the license).

VII. AS/EN 9100 Requirements

7.1. As the Parties have ambitions to comply with the highest quality standards, the Seller undertakes to:

7.1.1. implement and comply with the requirements of quality management in the aviation industry according to the relevant technical and quality standards (AS/EN 9100, etc.);

7.1.2. use only subcontractors, including process resources, specified or approved by the Buyer;

7.1.3. notify the Buyer of non-conforming processes, products or services relating to the Subject of Purchase and obtain approval from the Buyer for their disposal; in the event of a non-conforming, immediately notify the Buyer of such fact and handle the non-conforming Subject of Purchase with special care and as required by the Buyer; in the event of an irreparable non-conformity, provide evidence of destruction or return to the Buyer;

7.1.4. avoid the use of imitation, counterfeit or suspect parts or goods;

7.1.5. notify the Buyer in advance of any changes in processes, products or services, including changes to its subcontractors or regarding the location of production and not make such changes without the Buyer's approval;

7.1.6. delegate to its subcontractors applicable Buyer requirements, including the Buyer's customer requirements if the Seller is aware of them;

7.1.7. provide test samples to the Buyer for design approval, inspection or verification, investigation or auditing;

7.1.8. retain documented information relating to the Subject of Purchase or the products used in its manufacture for the duration of the Subject of Purchase's warranty, but not less than 5 years from the date following the Buyer's acceptance of the Subject of Purchase; dispose of documented information in accordance with laws and regulations;

7.1.9. allow the Buyer, its customer(s) and public authorities access to the relevant areas of all facilities and to the applicable documented information, and to pass this requirement on to all levels of its (sub)supply chain; in particular, allow the Buyer to carry out or participate in an audit relating to certification or authorization, or allow the Buyer to oblige the Seller to obtain certification or authorization or to amend it.

7.1.10. inform the Buyer without undue delay of the loss or suspension of any certification, authorization or change in the scope thereof;

7.1.11. allow the Buyer to determine its own requirements for approval of products necessary for the manufacture of the Subject of Purchase or the Subject of Purchase itself, also the procedures, processes and equipment; in these areas; the Buyer is entitled to require the Seller to provide documentation, while the Seller is obliged to seek the Buyer's prior approval in the event of changes,

7.1.12. allow the Buyer to define the requirements for the Subject of Purchase, including the method of their release.

7.2. The Seller declares that it is aware of its importance in the Buyer's entire (sub)supply chain regarding:

7.2.1. contributing to the conformity of the Subject of Purchase;

7.2.2. contributing to the safety of the Subject of Purchase;

7.2.3. the importance of adhering to high ethical requirements.

VIII. Other Arrangements

8.1. The Parties undertake to maintain confidentiality with respect to all facts which they become aware of in connection with the performance of the Contract. These facts are the Buyer's trade secret. The Seller is not entitled to use these facts other than for the purpose of performance of the Contract.

8.2. The Seller is obliged to reasonably comply with the Buyer's Code of Ethics and Anti-Corruption Code available at: <https://www.aero.cz/en/about-us/documents/>.

8.3. The Buyer is entitled to update the T&C. The new wording shall be published by the Buyer on the website www.aero.cz at least 30 days before the effective date of the change. The Buyer informs the Seller about changes to the T&C also in writing, usually by notification in a form of an e-mail message, and the Seller undertakes to familiarize themselves with the updated T&C. If the Seller does not express explicit written disagreement within 10 days before the effective date of the T&C change at the latest, the new wording of the T&C becomes binding on all contractual relations between the Parties.

8.4. For the purposes of these T&C, the contract also means a purchase order received.

8.5. Unless otherwise stated in the proposal to conclude the Contract (in the purchase order), the time limit for accepting the proposal for the conclusion of the Contract (purchase order) is 15 days.

8.6. The Seller's obligation to compensation for damage also includes the obligation to compensate for detriment.

8.7. Breach of the Seller's obligation referred to in points 1.3., 4.2. or 8.1. of the T&C shall be deemed to be a material breach of the Contract.

8.8. If the Party substantially violates the Contract, the other Party may withdraw from the Contract within 2 months at the latest from the date on which it became aware of such breach.

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8.9. A party, which is prevented from fulfilling an obligation under the Contract by an insurmountable obstacle arising independently of the will of such a Party, is obliged to inform the other Party of such obstacle without delay after the occurrence of such circumstances. To avoid any doubts, it is stated that such obstacles shall not be considered to be changes in the prices or availability of input raw materials or delays for suppliers of the obligatory Party. If such circumstances last for more than 45 days, either Party shall be entitled to withdraw from the Contract.

8.10. The Seller may not transfer or assign their obligations and receivables from the Contract to a third party, even partially. The Seller is not entitled to set off a claim against the Buyer; an uncertain or indeterminate claim of the Buyer is eligible for set-off.

8.11. The Buyer, within the meaning of Section 1740 of the Act No. 89/2012 Coll., Civil Code, as amended ("OZ") excludes the possibility of accepting an offer with an amendment or derogation.

8.12. The Seller assumes to themselves, within the meaning of Section 1765 (2) OZ, the risk of change of circumstances.

8.13. In case of discrepancies between the Contract and these T&C, the provisions contained in the Contract shall prevail, but the remaining provisions of the T&C shall apply as far as possible.

8.14. The Contract may be changed only by written amendments signed by authorized representatives of both Parties.

8.15. The following provisions of the OZ shall not be applicable for the purposes of the Contract: Sections 557, 1799, 1800, 1930 (2), 1978 (2), 2093, 2103, 2104 and sections 2109 - 2112.

8.16. The Contract and the legal relations resulting therefrom shall be governed by the law of the Czech Republic. The application of the United Nations Convention on Contracts for the International Purchase of Goods shall be excluded.

8.17. If packaging is a part of the Subject of Purchase, the Seller undertakes to inform the Buyer about the method of recovery of packaging/waste from packaging and about the method of assurance of take-back.

8.18. The Seller assures the Buyer that the use of the Subject of Purchase as well as the handling of the Subject of Purchase will not affect the intellectual property rights of third parties.

8.19. These T&C take effect on 21.8.2023.