

APOC Aviation General Terms and Conditions of Purchase

1. Scope

1.1

All supplies, services and offers by the suppliers of Aircraft Part-Out Company B.V. (hereinafter called "APOC") shall be exclusively based on these General Terms and Conditions of Purchase. These General Terms and Conditions of Purchase shall be considered an essential part of all contracts concluded with the suppliers of APOC with respect to their offered supplies or services. They shall also apply to all future supplies, services or offers to APOC, even if they have not been agreed severally again. Contract Language shall be English.

1.2

Any terms and conditions of the suppliers of APOC or a third party shall not apply, even if APOC does not object to their applicability in each individual case. Even if APOC should refer to a letter containing or referring to terms and conditions of the supplier or a third party, then this shall not indicate agreement to the applicability of said terms and conditions.

1.3

Any individual arrangements with the supplier in an individual case shall apply only if agreed in writing. Legally binding declarations and notifications to be provided by the supplier to APOC after concluding the contract (e.g. imposing deadlines, notifications of defect, cancelation or price reduction) shall also be given in writing to be effective.

2. Orders and purchase orders

2.1

If the offers by APOC do not contain an express commitment period, APOC shall commit itself to a commitment period of one week beginning on the date of the offer. The date of receipt by APOC of the declaration of acceptance shall be the determining factor for the timely acceptance of the offer.

2.2

APOC shall be entitled to change the date and time and place of delivery as well as the type of packaging anytime within a period of at least three calendar days prior to the agreed date of delivery by sending a written notification. The same shall apply to changes of product specifications, if they can be implemented into the regular production processes of the supplier or the manufacturer without substantial additional effort. However, in this event, the notification period shall be at least seven calendar days. APOC shall compensate the supplier for any accrued, proven and reasonable additional costs resulting from these changes. In the event of such changes resulting in delivery delays that may not be avoided with reasonable effort within the supplier's regular production or business processes, then the originally agreed date of delivery shall be postponed accordingly. The supplier shall, following careful assessment, notify APOC in writing of the anticipated additional costs or delivery delay in due course of time prior to the date of delivery, but at least within five working days after receipt of APOC's notification according to the terms of clause 1.

2.3

The supplier shall deliver to APOC the exact product specific article number as stated in the concluded contract. APOC shall accept a different article number (for instance PMA) or a technical equivalent only after prior consent in writing.

2.4

If APOC is unable to use the ordered products within their business processes anymore due to reasons arising after the contract has been concluded, then APOC shall be entitled to terminate the contract anytime by sending a written notification stating the reason. In this event, APOC shall compensate the supplier for the already rendered services or delivered supplies.

3. Prices and payment terms

3.1

The price stated in the purchase order shall be considered binding. All prices shall be considered including applicable value added tax, unless the value added tax is stated separately.

3.2

If not agreed otherwise in each individual case, the price shall include all services and ancillary services of the supplier as well as any ancillary charges (e.g. proper packaging, transportation charges including any potential transport and liabilities insurance). The supplier shall take back any packaging material upon request by APOC.

3.3

The agreed price shall be due for payment within 30 calendar days after delivery and service has been completed (including any potentially agreed acceptance) and receipt of a proper invoice. If APOC is paying within 14 calendar days, then the supplier shall grant a cash discount of 3% based on the net invoice amount. In the event of bank transfer, the payment shall be considered on time, if the bank transfer order by APOC is received by APOC's house bank before the payment period has expired; APOC shall not be held responsible for any delays by the bank institutes involved in the payment transaction.

3.4

APOC shall not owe any interest payable after due date. The annual default payment interest rate shall amount to five percentage points above the prime rate. Applicable legal provisions shall apply to the occurrence of defaulting by APOC, whereas however, as an exception from these provisions, a written reminder by the supplier may be required in every case.

3.5

APOC shall be entitled to the right of offsetting and withholding payments as well as the plea of a nonfulfilled contract as provided by applicable laws. APOC shall be especially entitled to withhold due payments, if APOC still has valid claims from incomplete or defective services against the supplier.

3.6

The supplier shall be entitled to the right of offsetting and withholding payments only in the event of legally determined or undisputed counterclaims.

4. Term of delivery and delivery, passing of risk

4.1

The supplier shall not be entitled to let at third party (e.g. subcontractor) render the services owed under the contract without prior consent by APOC in writing. The supplier shall bear the risk of procuring his services, if not agreed otherwise in the individual case (e.g. sale of goods on stock).

4.2

The period of delivery (date of delivery or term of delivery) stated in the purchase order shall be binding. Deliveries ahead of schedule shall be acceptable if agreed prior to the date of delivery in writing. The supplier shall notify APOC in writing, if the goods to be delivered are dangerous goods, irrespective of their specific classification.

4.3

The supplier shall be obliged to notify APOC without delay in writing of circumstances occurring or becoming apparent, which may prevent the supplier from keeping the term of delivery.

4.4

If the exact date on which the delivery has to be effected at the latest can be defined on the basis of the contract, then the supplier shall be in default upon expiry of that date, without APOC being required to send a reminder.

4.5

In the event of a default of delivery, APOC shall be entitled to any unconditional legal claims, including cancelling the contract and indemnification instead of accepting the services, after the futile expiry of a reasonable period of grace.

4.6

In the event of default of delivery, APOC shall be, after prior threat in writing, entitled to claim a contractual penalty of 0.5% or a maximum of 5% of the individual contract value, for each commenced week of the default of delivery period. The contractual penalty shall be offset with the damage caused by defaulting to be indemnified by the supplier.

4.7

The supplier shall be entitled to partial deliveries if agreed in writing prior to the date of delivery.

4.8

The risk shall pass on to APOC only after the goods have been handed over to APOC at the agreed destination, also if shipment has been agreed.

4.9

A packing list shall accompany the delivery, stating the date (preparation and shipment), content of the shipment (article number and quantity) as well as APOC's purchase order identification (date and number). APOC shall not be liable to any delays in processing and payment resulting from a missing or incomplete packing list. A corresponding shipment notification with the same content shall be sent to APOC separately, aside from the packing list.

5. Confidentiality and retention of title

5.1

APOC shall retain the right of title and copyright to any illustrations, schedules, drawings, calculations, operating instructions, product descriptions and other documents. Any such documents shall only be used to render the contractually agreed services and shall be returned to APOC upon fulfilment of the contract. Any such documents shall be kept confidential from third parties, also after fulfilment of the contract. The obligation of confidentiality shall expire only, if the contents of said documents have become common knowledge.

5.2

The aforementioned provisions shall apply mutatis mutandis to any goods and materials (e.g. software, finished or semi-finished products) as well as tools, templates, specimen, and other items, which APOC provides to the supplier for manufacturing. Such items shall be – if they are not yet used in the manufacturing process – stored at the expenses of the supplier and adequately insured against damage and loss.

5.3

The transfer of ownership of the goods to APOC shall be unconditional and without regard to the payment of the purchase price. In the event of APOC accepting an offer of the supplier to transfer the ownership on the condition of the payment of the purchase price in an individual case, then the supplier's retention of title shall expire at the latest upon payment of the purchase price for the delivered goods. APOC shall be entitled to resell the goods even before payment of the purchase price in the context of a proper business transaction, based upon assignment in advance of the resulting claims (alternatively, a basic retention of title extended to the resale shall apply). Any other type of retention of title shall be excluded, in particular the extended retention of title, the forwarded retention of title and the retention of title extended to the further processing of the product.

6. Warranty claims

6.1

In the event of defects, APOC shall be entitled to the unconditional claims as provided by applicable law. However, notwithstanding those provisions, the warranty period shall be 36 months.

6.2

According to the provisions of applicable laws, the supplier shall be liable to the goods having the agreed properties upon passing of the risk to APOC. The suppliers shall in particular ensure to APOC a remaining minimum shelf life of at least 75% and also a remaining expire date of at least 75%. The agreed properties shall be defined as the product properties indicated in the product descriptions, which – in particular by naming or referring to them in the purchase order by APOC – are part of the individual contract or have been included into the contract in the same fashion as these General Terms and Conditions of Purchase. There shall be no difference whether the product description has been prepared by APOC, by the supplier or the manufacturer.

6.3

APOC shall also be entitled to unconditional claims due to defects, if the defect has been unknown to APOC upon concluding the contract due to gross negligence.

6.4

Concerning the commercial obligation to examine the goods and to give notice of defects, the legal provisions shall apply under the condition, that APOC's obligation to examine shall be limited to those defects, that come to light upon visual inspection including the delivery documents at the time of the incoming goods inspections as well as those that come to light during a sampling procedure quality control (e.g. transport damages, wrong or short delivery). There shall be no obligation to examine the goods if an acceptance procedure has been agreed. Furthermore, the extent to which an examination is feasible in accordance with a proper business transaction shall be taken into account, based on the circumstances of each individual case.

6.5

The obligation to give notice of defects to APOC for defects discovered at a later time shall remain unaffected. For each individual case, the notification of defect shall be deemed without delay and on time, if it is received by the supplier within six working days.

6.6

The supplier's expenditures accrued for the purpose of examination and rectification of the defect (including any potential assembly and disassembly costs) shall be borne by the supplier, even if it is discovered that no defect existed. The liability for indemnification by APOC in the event of unjustified claims to rectify a defect shall remain unaffected; APOC shall be held liable only insofar, as APOC has recognized or not recognized based on gross negligence that no defect existed.

6.7

In the event of the supplier not complying with his obligation of supplementary performance – by choice of APOC either by rectifying a defect or delivering nondefective goods (replacement delivery) – within a reasonable time limit set by APOC, then APOC shall be entitled to rectify the defect themselves or claim from the supplier compensation of the necessary expenditures or a reasonable advance payment. In the event of the supplementary performance proving unsuccessful by the supplier or unreasonable for APOC (e.g. due to particular urgency, danger to the safety of operation or a threat of disproportionate damages), then no setting of a grace period shall be required; APOC shall notify the supplier without delay, if possible in advance, of any such circumstances.

6.8

Furthermore, in the event of a defect in quality or a defect of title, APOC shall be entitled to reduce the purchasing price or to cancel the contract as provided by applicable laws. Additionally, APOC shall be entitled to a compensation of damages and expenditures as provided by applicable laws.

7. Product liability

7.1

The supplier shall be liable to all claims resulting from bodily damages or material damages raised by third parties, that can be attributed to a defective product supplied by him and shall be obliged to hold harmless APOC from any liability resulting therefrom. Should APOC be obliged to carry out a product recall from third parties due to an error of a product delivered by the supplier, then the supplier shall bear all costs involved with this product recall.

7.2

The supplier shall be obliged to take out a product liability insurance at his own expenses with a limit of indemnity of at least 10 million Euro, which, if not agreed otherwise in the individual case, does not need to cover the risk of product recall or punitive damages or similar damages. The supplier shall provide a copy of the liability insurance policy to APOC upon request.

8. Intellectual property rights

8.1

The supplier shall vouch for the fact that no third party intellectual property rights in countries of the European Union, North America or other countries in which he manufactures his products or has them manufactured, are infringed in connection with the supply of his products.

8.2

The supplier shall be obliged to hold harmless APOC from all claims which third parties might raise against APOC resulting from the infringement of commercial intellectual property rights as provided in section 1 and shall compensate all necessary expenditures resulting from these claims. This claim shall be valid irrespective of any fault by the supplier.

9. Spare parts

9.1

The supplier shall be obliged to keep on stock spare parts for the delivered products for a period of at least seven years after the delivery.

9.2

In the event of the supplier intending to discontinue the manufacturing of spare parts for products delivered to APOC, he shall notify APOC without delay after making this decision. The date pertaining to this decision shall be – subject to section 1 – at least six months prior to the actual discontinuation of the manufacturing.

10. Confidentiality

10.1

The supplier shall be obliged to keep confidential all terms and conditions of the purchase order as well as any information and documents supplied for this purpose (with the exception of any publicly accessible information) for a period of three years after concluding the contract and to only use this information and documents to execute the purchase order. Upon request, the supplier shall return this information and documents to APOC without delay after completion of the inquiries or the execution of the purchase orders.

10.2

The supplier shall not be allowed to indicate the business relationship on advertising material, brochures, etc. without prior written consent by APOC.

10.3

The supplier shall place his sub suppliers under the same obligation as provided in this article.

11. Other provisions

11.1

In the event of the contract or these General Terms and Conditions of Purchase not covering certain issues, then those legal provisions shall be considered agreed to cover these issues, which the contracting parties would have agreed to based on the economical objectives of the contract and the purpose of these General Terms and Conditions of Purchase, if they had been aware of these issues not being covered.

11.2

Sole place of jurisdiction for all disputes resulting from or in connection with this contract shall be The Hague, The Netherlands. The laws of the Kingdom of The Netherlands with the exception of the UN Convention on Contract for the International Sale of Goods and the rules of Conflict of Law of Dutch international civil law shall apply.

11.3

Prior to any raising of claims by way of legal action, both parties shall be obliged to participate in an arbitration process before an arbitrator to be named by the Chamber of Commerce of The Hague, The Netherlands. The costs for engaging such an arbitrator shall be borne by both parties in equal shares half-and-half.

12 Supplier Quality Assurance

12.1

The Supplier shall establish and maintain a quality system that covers all aspects of the Supplier in connection with the Order. The Supplier shall provide evidence of their quality management system and its processes to the Purchaser on request and demonstrate continual improvements.

12.2

Where required on the Purchase Order, the Supplier must comply with the Purchaser's, customer-approved special process sources.

12.3

The Purchaser is to be contacted (by the Supplier) in the event of non-conforming product or material. Arrangements for the approval of Supplier nonconforming product or material must be as directed by the Purchaser's Operations Manager or Quality Manager.

12.4

Furthermore, the Purchaser must be notified of changes in product or process definitions that were not requested by the Purchaser. Notification should describe the change or changes that have been made or are being proposed. The Purchaser reserves the right to require its approval of the product or the process change before the Supplier forwards the product. Approval shall be obtained from the Operations Manager or Quality Manager .if applicable

12.5

The Supplier shall provide right of access to the Purchaser, our customer and regulatory authorities to the applicable areas, at any level of the supply chain involved in the order to audit or inspect product and processes and to all applicable records

12.6

When the Purchaser or its customer intends to perform verification at the Supplier's premises; the Purchaser will first state the intended verification arrangements and the method of product release. This information will be communicated on the Purchase Order or via another acceptable purchasing arrangement.

12.7

The Supplier shall not subcontract any product or process to a sub-tier Supplier without the written consent of the Purchaser.

12.8

The Supplier is responsible for delivery and quality of any third party sub contractor employed. Delays in delivery resulting from employing a third party are liable to clause 5.3.

12.9

Verification by the Purchaser shall not be used by the Supplier as evidence of effective control of quality by the Supplier and shall not absolve them of the responsibility to provide acceptable product, nor shall it preclude subsequent rejection by the Purchaser.

12.10

Where required by the purchase order, the Supplier shall provide applicable certification.

12.11

All EASA/C of C Releases must show the DP Seals Limited Process Specification Number(s), and their Revision level(s), that were conducted during the manufacture of a part as applicable to the product ordered.

12.12

Where the Purchaser provides measuring, inspection or test equipment to the Supplier to be calibrated, they shall ensure that it has been calibrated against measurement standards traceable to national or international standards and where no such standard exists; the basis used for calibration shall be recorded.

12.13

The Supplier shall ensure that personnel who perform activities product quality including those performing calibration are competent on the basis of education, training, experience or qualification and records of such are maintained.

12.14

The Supplier shall provide and maintain all tooling including gauging and jigs required to manufacture the Goods.

12.15

The Supplier shall ensure where applicable, that traceability is maintained of product and material through the supply chain.

12.16

No deviation from the requirements stated on the Purchase Order shall be accepted without written consent from the Purchaser.

12.17

The Supplier shall flow down to the supply chain applicable requirements including those of our customer where stated on the Purchase Order.

12.18

The Supplier shall retain records for a minimum of 30 years or longer if stated on the Purchase Order.

12.19

Records shall be retained in such a manner to ensure they are readily retrievable, legible, and identifiable to the Purchaser order and suitable protected to prevent damage, loss or deterioration.