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## **General Terms and Conditions of Purchase of Stork Fokker AESP BV**

### **1. Definitions**

'Fokker' means Stork Fokker AESP BV. 'Supplier' means the party that Fokker provides with a request for quotation and/or an Order. 'Order' or "contract" means Fokker's purchase order, which consists of:

- these General Terms and Conditions of Purchase and
- the Fokker delivery instructions and
- any other documents and regulations that are listed in the Order as being applicable.

'Goods' means the items and/or services to be supplied by the Supplier to Fokker pursuant to an Order.

### **2. Applicability**

These General Terms and Conditions of Purchase shall apply, with the express rejection of the Supplier's general terms and conditions, to the entire legal relationship between Fokker and the Supplier with regard to the supply of Goods to Fokker, including requests for quotations and future contracts.

Additions to and/or deviations from these General Terms and Conditions of Purchase are only binding if and to the extent that Fokker has expressly accepted them in writing.

### **3. Order and confirmation**

The contract comes into existence by means of Fokker forwarding the Order. The Supplier shall return a legally signed copy of the Order to Fokker within 7 calendar days of receipt, as a confirmation of receipt. Fokker has the right to unilaterally cancel the contract, without costs to Fokker, up to 7 days after receipt of the copy of the Order.

### **4. Price and payment**

Prices listed in the Order are fixed, exclusive of VAT but inclusive of all other taxes, costs and fees required to comply with the contract. The payment term will be 60 days after acceptance of the Goods, provided Fokker has received a correct invoice (in triplicate) complying with the invoicing instructions. In the event of delivery and invoicing of Goods before the agreed delivery date, the payment term will not commence until acceptance of the Goods.

Any dispute regarding an Order does not entitle the Supplier to suspend delivery of Goods.

**5. Certificates**

The Goods shall be supplied with all relevant certificates and documents as stipulated in the Order. The absence of one or more of these certificates and/or documents shall constitute a breach of contract, which may prevent the acceptance of the Goods.

**6. Inspection**

Fokker and its customers and/or supervisors are entitled to inspect and/or examine the Goods or items destined to be part of the Goods, the work and the organisation of the Supplier and to exercise progress control at any time up to the delivery of the Goods. The Supplier shall offer all reasonable assistance for this, shall allow access to any location(s) where the work is carried out and shall, if requested, produce test reports and other production information for inspection. If the Supplier has been granted permission under article 7 to employ subcontractors or involve other suppliers for the purpose of an Order, the Supplier shall impose the stipulations of this article 6 on those subcontractors or suppliers for the benefit of Fokker and its customers and/or supervisors.

If, at the time of inspection, it is shown that the Goods do not meet the specifications of the Order, or if it can reasonably be expected that the Goods will not meet the specifications of the Order, Fokker is entitled to reject the Goods and the Supplier shall take measures, at the Supplier's expense, to ensure that the Order shall still be complied with, without prejudice to any of Fokker's rights.

Inspection, rejection or failure by Fokker to do so shall not constitute acceptance of the Goods.

**7. Execution of the Order**

Other than with express written permission from Fokker, the Order or part thereof shall not be executed by subcontractors or other suppliers or with hired-in employees or by means of outsourcing. Such permission shall not affect Supplier's responsibility.

**8. Changes**

Fokker has the right to change Fokker's specifications and configuration of the Goods and the Supplier shall carry out these changes upon receipt of written instructions to do so. If the Supplier proves, within 7 days of receipt of the instruction and to Fokker's satisfaction, that the change will affect the price or delivery time and that the change is not caused by or contributed by the Supplier, the parties can discuss an adjustment to the price and/or delivery time. Fokker has the right, up to 4 calendar weeks before the agreed delivery date, to change the delivery date, by means of a written instruction. In case this change results in a later delivery date such change shall, up to 6 months after the originally agreed delivery date, be at no additional charge to Fokker.

## 9. Delivery

The Supplier shall deliver the Goods, including the required certificates and documents, in accordance with Fokker's delivery and packaging instructions and on the date stipulated in the Order. With the exception of *force majeure*, if the Supplier fails to comply with its delivery obligations, the Supplier shall pay to Fokker, without further notice of default being required, by way of penalty which shall not be in lieu of actual damages suffered (in) directly by Fokker, an amount of 3% of the affected part of the Order price for every calendar week or part thereof that the delay continues, to a maximum of 15% of the affected part of the Order price. Payment of such penalty is without prejudice to Fokker's rights under the Order or at law, including the right to claim payment of the actual damages suffered and/or to terminate the Order in whole or in part.

The Supplier shall immediately notify Fokker in writing on any foreseeable delay to a delivery. If the Supplier fails to do so he will not be able to claim *force majeure* in the matter. Any default on the part of the Supplier's suppliers/subcontractors will never be regarded as *force majeure*.

Unless stipulated otherwise in the Order, the delivery of the Goods will be Free Carrier, but not cleared for export to the site designated in the Order in accordance with Incoterms (latest edition) and with due observance of the passing of risk as set out in article 10 hereunder.

## 10. Acceptance / Passing of Title and Risk

Fokker will visually inspect the Goods for any shortfalls, missing certificates or documents, visible deficiencies and damage ('Non-conformity') within a reasonable period after receipt. If, in Fokker's opinion, there is a Non-conformity, Fokker will notify the Supplier, in writing and no later than 60 days after receipt, of the non-acceptance of the Goods or part of the Goods. Fokker is entitled to determine whether the Supplier must replace the Goods or remedy the Non-conformity within a period to be stipulated by Fokker. If replacement or repair does not occur within this period, Fokker is entitled, at Fokker's discretion and without Fokker being liable for any compensation, to

(i) terminate the Order in writing, (ii) remedy the Non-conformity or have the Non-conformity remedied at the Supplier's expense, and/or if applicable, (iii) have the Goods certified retrospectively at the expense of the Supplier. These rights do not affect any rights that Fokker may have under the Order (including the rights stipulated in articles 11, 12 and 14 of these General Terms and Conditions of Purchase) and under the applicable law.

If Fokker does not send a notice of non-acceptance within the 60-day period stipulated above, the Goods may be deemed to have been accepted and the risk in the Goods is transferred to Fokker. Signing of a confirmation of receipt shall not be considered to constitute acceptance of the Goods.

Title to the Goods shall pass to Fokker upon delivery at the place designated by Fokker in the Order, or, in case a payment is made by Fokker prior to delivery, upon receipt of such

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payment by Supplier. In case of Tooling Fokker shall become the owner thereof immediately upon the start of manufacture thereof.

### **11. Warranty**

The Supplier warrants that the Goods

- shall be complete, in good order, new, suitable for their intended purpose and free from design, construction and material faults; and
- shall meet, in all aspects, the requirements and specifications stipulated in the Order and that are referred to in the Order, drawings, calculations and further information and documentation that the Supplier has been provided with; and
- shall conform to all applicable regulations of civil aviation authorities and/or military supervisors; and
- shall not infringe on patents or other intellectual and industrial property rights or other rights of third parties.

Fokker is entitled to assign its rights under articles 11 and 12 to Fokker's customer without requiring prior permission from the Supplier.

### **12. Warranty content /term**

If within 24 months of acceptance – in the event of infringement of patents or other intellectual and industrial property rights or other rights of third parties: at any time – Fokker determines that the Goods no longer meet one or more of the warranties as stipulated in article 11 ('Defect'), Fokker will notify the Supplier of this in writing and the Supplier shall, without further costs to Fokker, immediately replace or repair the Goods or acquire a transferable right of use for Fokker and Fokker's customers, at Fokker's discretion. If the Supplier fails to comply with this obligation Fokker has the right, without a requirement for further notice of default, to repair or replace the Goods or have the Goods repaired or replaced at the expense of the Supplier. If 3 or more similar Defects occur in comparable Goods, Fokker has the right to demand free of charge replacement or repair, as stipulated previously in this article, of equivalent Goods that have already been delivered or are still to be delivered, even if the Defect has not yet occurred in those Goods.

Costs for installation, removal, (dis) assembly, testing, transport and all other costs are the responsibility of the Supplier.

Neither this article 12 nor any other article in these Terms and Conditions of Purchase excludes or limits the Supplier's liability at law.

### **13. Confidentiality**

The Supplier undertakes to maintain the confidentiality of all information and know-how supplied by Fokker and shall use this information and know-how exclusively for the execution of the Order.

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**14. Indemnity**

The Supplier shall indemnify and hold Fokker harmless against any and all claims, costs, including legal costs, losses, suits, judgements from or against Fokker and/or third parties, including Fokker's customers, in any way connected with or related to defects to Goods or with the execution of an Order, or as a result of an (assumed) infringement of patents or other intellectual or industrial property rights or other rights of third parties.

**15. Tooling**

All auxiliary items such as drawings, models, matrices, moulds, dies and specific tools ("Tooling") required for the execution of the Order that are made available by Fokker or have been manufactured or purchased by the Supplier, shall remain or immediately upon manufacture or purchase thereof become the property of Fokker. As long as the Supplier has such Tooling in his possession the Supplier shall be responsible for the cost of storage and for the risk of damage to and/or loss of such Tooling. The Supplier shall ensure that Tooling is marked in such a way that Fokker will be able to exercise its proprietary rights at all times and the Supplier shall offer Fokker all the required assistance to do so, including the granting of access. If a third party threatens to take possession of Tooling the Supplier shall immediately notify Fokker thereof.

**16. Termination**

Fokker shall have the right at all times to unilaterally terminate an Order by means of written notification, which may include a term, to the Supplier. If Fokker terminates the Order for convenience Fokker will reimburse the Supplier for any direct, reasonable, irreversible costs the Supplier can prove he has incurred in the execution of the Order, insofar as these costs have not yet been reimbursed by Fokker by means of previous payments to the Supplier, after acceptance of these costs and upon receipt of a correct invoice. The Supplier must forward such a claim for costs, with supporting documentation, within 1 month after the termination of the Order. Failure to do so may result in forfeiture of any right to compensation.

Without prejudice to Fokker's other rights under the Order and under the applicable law, Fokker has the right to terminate an Order in writing, without a requirement for notice of default, if the Supplier does not properly fulfill his contractual obligations or if such may be anticipated, is declared bankrupt, applies for suspension of payments or voluntary liquidation or if a third party submits such an application or if a situation arises which, in Fokker's opinion, may lead to suspension of payments or (in)voluntary liquidation, without Fokker being responsible for any costs or damages that are or may be the result of such termination.

**17. Law/court**

The Order and all contracts arising therefrom or connected therewith shall exclusively be governed by the laws of the Netherlands. The stipulations of the Vienna Sales Convention of 11 April 1980 (CISG) (Bulletin of Treaties 1981, 84 and 1986, 61) are excluded.

Any dispute that may result from an Order or related contracts will, in the first instance, be subjected to mediation in accordance with the ACB Mediation Regulations. If no agreement is reached within 30 days regarding the dispute in accordance with these Regulations, either party shall be entitled to submit the dispute to the competent Dutch Court. This method of dispute settlement does not affect the right of a party to apply for an interim award in interlocutory proceedings.

January 2003