



General Terms of Purchase and Supplier Terms & Conditions

1 Scope

- 1.1. The following Terms of Purchase and Supplier Terms & Conditions (Einkaufs- und Lieferantenbedingungen, "AELB") shall apply to all contracts for the procurement of goods and other services which are provided to ARRK Engineering GmbH (Munich, commercial register number HRB 143242), as the customer (hereinafter referred to "ARRK"), by a contractor or supplier (hereinafter referred to as "Contractor"). Hereinafter, ARRK and the Contractor will also individually be referred to as a "Party" and jointly be referred to as "Parties".
- 1.2. These AELB shall apply exclusively. Conflicting, derogating or additional contract, supply or license terms of the Contractor will not become part of the contract, even where ARRK does not expressly object to them. The only exception from this is if ARRK has explicitly consented to their application in writing (text form is sufficient).
- 1.3. The contractual conditions of the main order must be used correspondingly for any additional and respectively change orders. This does not require separate agreement.
- 1.4. Insofar as the written order or respectively individual assignment puts in place regulations that deviate from these conditions, these deviating regulations shall take precedence.
- 1.5. These conditions also apply for future transactions with the Contractor. The relevant version of the AELB is the one in effect at the time when the respective contract is executed. These can be accessed using the following web address:

<https://www.arrkeurope.com/downloads/documents/terms-conditions/>
- 1.6. Unless otherwise provided for in the relevant provision, text form (in particular e-mail) is not sufficient where these AELB refer to "written form".

2. Contract formation and changes

- 2.1. The specific contract on the service ordered is only formed when the Contractor has confirmed the order placed by ARRK in writing. For the avoidance of doubt, any action taken by the Contractor to process an individual or call-off order constitutes the acceptance of that order.
- 2.2. Offers that are based on an inquiry from/call for tenders of ARRK must comply with the specifications set out therein. Where the Contractor deviates from such specifications, it shall expressly notify ARRK of this in writing (text form is sufficient). Deviations are only valid where they have been expressly approved by ARRK in writing. The Contractor is free to submit alternative offers and special suggestions.
- 2.3. ARRK may withdraw the order if the Contractor does not accept it in writing within one week of its receipt and the Contractor does not start providing the goods or services to ARRK within such period. Such withdrawal does not give rise to claims for damages against ARRK.

- 2.4** Where the provision of the service is a work performance or a work delivery and it has not been accepted yet, ARRK may, at its reasonable discretion and taking into account the interests of the Contractor, change or supplement the service ordered at any time. The Contractor has a duty to analyze the impact of the changes and supplements on the project and its process (in particular with respect to the technical feasibility as well as the impact on the quality, deadline and costs) without undue delay. The Contractor shall notify ARRK of the result immediately in writing (text form is sufficient).
- 2.5** As necessary, the Contractor shall propose any changes it considers necessary or advisable for a successful performance of the contract to ARRK. These changes shall be implemented after they have been approved by ARRK in writing (text form is sufficient). Where the costs of the service ordered change considerably or where the deadlines agreed cannot be complied with due to the change request, the Parties undertake to mutually agree on an appropriate arrangement.
- 2.6** The Contractor must notify ARRK in writing (text form is sufficient) and without undue delay of any proposed changes (in particular regarding the type of the composition, the material used, the design and/or the execution) compared to similar deliveries or services provided to ARRK in the past. The changes are only valid if they have been approved by ARRK in writing (text form is sufficient).

3 Service provision

- 3.1** The Contractor shall ensure that the services provided by it under the contract comply with the applicable guidelines and technical regulations, reflect the state of the art of science and technology, comply with all other legal regulations and fulfill the standard market requirements of the ordering party and the respective end customer.
- 3.2** The overall responsibility for the services to be provided lies with the Contractor. The Contractor is liable to ARRK with respect to all process steps and all parts of the performance.
- 3.3** Direct or indirect subcontracting to third parties is only permitted with the written consent of ARRK (text form is sufficient). If the Contractor violates the foregoing provision, ARRK is entitled to terminate the contract without notice.
- 3.4** The overall responsibility shall continue to lie with the Contractor, even where contracts are directly or indirectly subcontracted to third parties and the subcontracting was permitted.
- 3.5** Unless expressly agreed otherwise, the Contractor has a duty to deliver the goods or services to be provided at or to ARRK's place of business at its own risk.

4. Delivery periods and default in delivery

- 4.1** The delivery and performance periods specified in the relevant contract are binding. In addition, the statutory regulations on default in delivery apply.
- 4.2** The Contractor has a duty to notify ARRK in writing (text form is sufficient) without undue delay if any events occur or are foreseeable due to which the binding periods cannot be complied with.
- 4.3** The Contractor shall also be deemed to be in default of delivery with respect to the performance if it provides (partial) services in due time, but not in a condition in which they can be accepted.

5. Acceptance

- 5.1** Where the service to be provided is a work performance or a work delivery, it must be formally accepted. The acceptance shall be documented in a certificate of acceptance which must be signed by the Contractor and the responsible project manager.

- 5.2** Making the service provided available ready for use shall not be deemed its acceptance.
- 5.3** Any legal fiction of acceptance is excluded. Making a payment without reservation does not signify acceptance of the service.
- 5.4** Where the service is seriously deficient, formal acceptance can only occur after the Contractor has remedied the deficiencies noted in the period provided by ARRK for subsequent performance.
- 5.5** Where a service provided by the Contractor is also a service to be provided by ARRK to its end customers, or where that service is integrated into a respective overall service to be provided by ARRK to its end customers, the acceptance of the service provided by the Contractor may only occur after the overall service has been accepted by the end customer. A separate statement to this effect is not required.
- 5.6** Unless otherwise agreed, the Contractor is not entitled to a partial acceptance.

6. Items supplied

- 6.1** Unless expressly agreed otherwise, any items, tools, work equipment and other materials made available to the Contractor by ARRK (also as a loan) shall remain the property of ARRK and shall be specially marked as such.
- 6.2** The Contractor shall handle the items made available to it properly and carefully and, at its own expense, maintain their contractually agreed condition and, where necessary, replace them. It shall notify ARRK of any loss or deterioration of the items supplied in writing (text form is sufficient) without undue delay.
- 6.3** As long as the items supplied are in the custody or under the control of the Contractor, the associated risks are borne by the Contractor.
- 6.4** At the request of ARRK, and at the latest upon the completion of the contract, the Contractor shall return the items made available to it without undue delay.

7. Prices and payment terms

- 7.1** The prices shown in the order are fixed net prices, exclusive of any statutory value-added tax payable. Unless otherwise agreed, the Contractor's expenses (e.g. transport and installation costs, travel expenses, insurance, customs fees) are included in the fixed price. Unless expressly otherwise agreed in the order, the hourly rates listed, as the calculation basis, are only meant to provide cost transparency.
- 7.2** Where the service to be provided is a work performance or a work delivery, payment - unless otherwise agreed in the order - shall be made net within 30 days of receiving a proper and auditable invoice and of signing the certificate of acceptance. With respect to all other services, the relevant date is the day on which ARRK receives a proper and auditable invoice.
- 7.3** Unless otherwise agreed in the order, the Contractor is not entitled to receive payments on account. Payments on account can only be made after a preliminary acceptance based on the progress of the work, unless a preliminary acceptance is not possible due to the type of the work.
- 7.4** The Contractor may only offset claims or assert rights of retention if its claims are undisputed or have been upheld and declared unappealable. Customer counterclaims from the same contractual relationship are excluded from this.
- 7.5** ARRK may assert rights to reduce the price or refuse performance and rights of retention against claims of the Contractor at any time. ARRK is also entitled to offset its own claims against claims of the Contractor where the Contractor has transferred these claims to third parties.

- 7.6** The Contractor may only assign, pledge as collateral or otherwise transfer claims against ARRK with the prior written consent of ARRK. If the Contractor assigns a claim without ARRK's consent, the assignment is valid regardless and ARRK can choose whether it wants to perform its obligation vis-à-vis the Contractor or the third party with discharging effect.

8. Right of access and audits

- 8.1** The Contractor grants ARRK the right to verify the effectiveness of quality assurance and monitoring, the compliance with an adequate level of information security and the compliance with data protection requirements on-site ("audits"). As part of this, the Contractor grants ARRK a comprehensive right of access to all the facilities related to the order and the associated records. The Contractor will enable ARRK to carry out the audit properly and will assist ARRK during this process.
- 8.2** The execution of an audit is announced to the Contractor by ARRK in a reasonable time and should take place during normal business hours without disruption of the operational processes.
- 8.3** In addition, the Contractor grants the authorities and rule-making institutions a general right of access to all facilities related to the order and the associated records.
- 8.4** This does not restrict or exclude the statutory rights of control and information of ARRK.

9. Warranty

- 9.1** Unless otherwise agreed, the warranty shall be aligned with the legal provisions applicable in each case.
- 9.2** Where the Contractor is responsible for the deficiency, it shall reimburse ARRK for all costs incurred under the warranty.
- 9.3** If the Contractor fails to remedy the deficiency in the period specified by ARRK for this purpose, ARRK may remedy the deficiency itself and demand reimbursement for the required expenses. If there are special circumstances which require immediate action, in particular the fact that ARRK owes a performance to its customer by a specific deadline, ARRK has the right to shorten the period for subsequent performance in accordance with the urgency of the situation.
- 9.4** ARRK shall notify the Contractor of any deficiencies in the delivery in writing (text form is sufficient) without undue delay as soon as it becomes aware of them in the ordinary course of business. The Contractor waives the right to claim a late notice of deficiencies in this respect.
- 9.5** Any remediation of deficiencies or subsequent delivery the extent of which is more than insignificant shall give rise to an entirely new limitation period.
- 9.6** This does not affect further statutory or contractual claims.

10 Termination

- 10.1** ARRK may terminate the service relationship with the Contractor at any time. Notice of termination must be given in written form.
- a.)** If the relationship is terminated for convenience, ARRK shall pay the total compensation on a pro rata basis in accordance with the services demonstrably provided by the Contractor up to the date when the termination took effect.

- b.)** Where ARRK is responsible for the reason for the termination, it shall also reimburse the Contractor for the expenses incurred by it for the direct purpose of performing the contract with the due care and diligence of a prudent businessman which it was not able to avoid within appropriate and reasonable limits, to the extent they are not included in the compensation specified in Subsection **10.1 a.)**.
- c.)** In any case, the total amount of the payments to be made by ARRK in this respect shall be limited to the amount of the total compensation.
- d.)** Any further claims for performance or damages of the Contractor against ARRK shall be excluded.
- 10.2** This shall not affect the right to terminate the relationship for cause. The existence of such cause for termination shall be assumed, in particular,
- where one Party breaches a material duty under this contract and does not remove or remedy this breach or hold the other Party harmless within an adequate period specified by the other Party or
 - if the main contract, which is for the service to be provided, is not ultimately awarded or is terminated by the end customer. In this event, ARRK shall notify the Contractor of the circumstances which led to the termination for cause in writing (text form is sufficient) within an appropriate period of time.
- 10.1 a.) to 10.1 d.)** shall apply mutatis mutandis. Where the Contractor is responsible for the reasons for the termination, compensation shall be paid in accordance with Subsection 9.1 a), but only to the extent that the services provided constitute a completed unit which ARRK can utilize.
- 10.3.** Where the financial and credit situation of a party to the contract deteriorates to the extent that the proper fulfillment of the contractual duties is jeopardized considerably, in particular where insolvency proceedings have been applied for against its assets, the other party may rescind the contract with respect to the part not yet performed or may terminate the contract without notice.

11. Liability

- 11.1** The Contractor must ensure that its performance does not violate the rights of third parties. It shall indemnify ARRK and ARRK's customers against all claims based on the infringement of any intellectual property rights that have been granted or applied for, as well as copyright violations. This does not apply where the Contractor was not aware of, or unable to recognize, the existence of any rights of third parties, in particular in cases where intellectual property rights are violated through designs or other specifications provided by ARRK.
- 11.2** The Contractor shall indemnify ARRK against claims of third parties based on product liability if and to the extent that the Contractor is responsible for the product defect and the damage incurred under the principles of product liability law. The Contractor shall also reimburse ARRK for all costs resulting from a product recall in this respect. ARRK shall inform the Contractor about the content and scope of the recall or service activity to the extent that this is possible and reasonable and shall provide an opportunity to the Contractor to comment. This does not affect further statutory or contractual claims.
- 11.3** During the term of the contract, including the limitation periods, the Contractor shall maintain insurance which is customary in the industry and is adequate with respect to the basis and the amount in proportion to the scope of the contract and the risk of damage. The Contractor shall provide proof of this insurance to ARRK upon request. The Contractor hereby assigns all existing claims for payment against the insurance in connection with the goods or services to be provided to ARRK in advance. ARRK hereby accepts the assignment. Taking out the insurance does not limit the Contractor's liability with respect to the basis or the amount.

12. Confidentiality

- 12.1** The Contractor undertakes to keep confidential information of ARRK which was provided to it or which it learned about otherwise in the context of the contract confidential, to only use such information in connection with the purpose of the cooperation, and to not reproduce this information. It must ensure that confidential information is not made available to third parties (directly or indirectly) and must take all actions that are required to ensure that third parties cannot access such trade secrets or exploit such secrets.
- 12.2** For the purposes of Section **12.1**, “confidential information” shall be defined as all company and trade secrets, as well as, in particular, information on costs and prices and the bases of their calculation; the projects and amounts, customer contacts and customer specifications, technical drawings and data, work products and time lines on which the relevant contract is based; as well as other information that was provided to the Contractor or which it learned about otherwise and which was classified as requiring secrecy by ARRK or which obviously needs to be kept confidential.
- 12.3** The documents made available to the Contractor or prepared by it in the context of the relevant contract shall always be stored by it with the level of care that is standard in the industry to ensure that they cannot be accessed by third parties without authorization.
- 12.4** The obligation to cover confidentiality and non-utilization of confidential information shall not apply insofar as this information
- a.) was demonstrably known to the Contractor before it was disclosed by ARRK,
 - b.) was already publicly accessible or known to the public before disclosure, or becomes known at a later point in time without a breach of the obligation to confidentiality,
 - c.) was or is developed independently by the Contractor, without accessing the company or trade secrets, or
 - d.) must be disclosed due to a court instruction or regulatory action, or
 - e.) was or is provided or made available to the Contractor on a non-confidential basis.
- 12.5** If and to the extent that this is necessary in the context of the contract (“need-to-know principle”), the Contractor may disclose information, as defined in Section **12.2**, to its employees and subcontractors.
- 12.5** Where the Contractor uses subcontractors in the context of the contract, it shall place them under confidentiality obligations which correspond to its own confidentiality obligations vis-à-vis ARRK as necessary. On request by ARRK, this must be proven in writing.
- 12.6** Where the Contractor intends to use its business relationship with ARRK for advertising purposes, it must obtain ARRK's prior written (text form is sufficient) consent.

13 Transfer of rights

- 13.1** Unless otherwise agreed, ARRK shall be granted an exclusive, unlimited, sublicensable and irrevocable right of exploitation with respect to all models, samples, ideas and work products created due to and in the course of the performance, which ARRK may freely transfer to third parties. Accordingly, the Contractor has a duty to claim the intellectual property rights from its employees. The compensation agreed shall also cover the transfer of rights and any fee to be paid for employee inventions.
- 13.2** Where the work products contain intellectual property rights which the Contractor already owned before the contract was awarded, ARRK shall be granted a transferable, sublicensable, non-exclusive and irrevocable royalty-free license for these intellectual property rights or similar rights. The same applies where such intellectual property rights or similar rights are necessary for using the work product.

14. Data protection

- 14.1** In particular with respect to the processing of personal data, the Contractor must ensure that all persons used in the performance comply with the legal regulations regarding data protection. Where any obligation to protect data secrecy required under data protection law is required for such persons, the Contractor shall place them under such an obligation before any work is performed and shall provide proof of this to ARRK upon request.
- 14.2** Where necessary, an agreement relating to commissioned data processing must be concluded with ARRK to this end. Where the Contractor uses subcontractors in the context of the contract, it must ensure that any required agreements regarding the processing of personal data will also be executed by the subcontractor.

15. Compliance and sustainability

The Compliance and Sustainability Obligation of Suppliers, as amended, applies. It can be accessed using the following link:

<https://www.arrkeurope.com/downloads/documents/terms-conditions/>

16 General

- 16.1** The place of fulfillment and place of jurisdiction for all disputes is exclusively Munich. This also applies if the Contractor does not have a general place of jurisdiction in the Federal Republic of Germany when judicial proceedings are brought. However, ARRK may also bring proceedings in any other permissible court.
- 16.2** The law of the Federal Republic of Germany shall apply. The application of the United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980 (CISG) is ruled out.
- 16.3** If individual provisions of this contract between the parties, including these conditions, are or become ineffective, this shall not impact the validity of the remainder of the contract.