UAE Terms and Conditions of Sale and Delivery

(1) General

a) The terms and conditions apply to all deliveries, services and offers, even if they are not referred to in more detail separately (p. 1). We shall contract solely on the basis of the present terms and conditions (p. 1). Deviations, supplements, special warranties and other individual agreements must, without exception, be in writing to be effective (p. 1). This also applies to any waiver of this written-form requirement (p. 1). Deviating conditions of the buyer that we do not expressly acknowledge are not binding for us even if we do not specifically contest them (p. 1). With unconditional acceptance of the delivery or performance, the buyer shall be deemed to have accepted the validity of these terms and conditions (p. 1).

(2) Offers / orders

a) Our offers are subject to change (p. 1). Orders are binding for us only if we confirm them in writing (p. 1). Conditions of purchase of the customer that may di□er from our conditions of sale shall be valid only if we have expressly declared our agreement with them in writing (p. 1). Order confirmations must be examined immediately on receipt for accuracy and, if acceptance is refused, complaints must be submitted in writing within three days (p. 1).

(3) Delivery terms / Deadline / dates

a) Unless otherwise agreed in writing, all deliveries shall be FCA Dubai South, United Arab Emirates (Incoterms® 2020). The buyer shall also bear the risk with carriage-paid delivery (p. 1). We do not cover transportation insurance (p. 1). The dimensions and weights specified from our shipping site are the basis for the calculation (p. 1). Delivery time information is generally non-binding and is always to be regarded as approximated, unless the seller has expressly committed in writing to deliver within a certain period or by a specific date (p. 1).

b) Delayed or omitted deliveries do not entitle the buyer to compensation (p. 1). If the buyer delays taking delivery of the goods or violates other obligations to cooperate, we are entitled to demand compensation for the resulting damages, in particular for possible additional expenses (p. 1). The right to assert further claims is reserved (p. 1).

c) In the event of impediments caused by warlike entanglements or civil unrest, strikes, traffic obstructions, regulatory seizure and by similar events not caused by the seller, whether these occur in the United Arab Emirates, Austria, the country of origin or transit countries, at the premises of the supplier or a sub-supplier, the supplier is entitled to withdraw fully or partially from the contract without such withdrawal giving the buyer any right to compensation or any claim for additional delivery (p. 1).

d) Regardless of the current production site of the part offered to the buyer, we reserve the right to produce in future representational ranges at another Boxmark location (p. 1). Costs of modifications that may be forced by the associated customs regime shall not be borne by Boxmark (p. 1).

e) Force Majeure

The Seller shall not be liable for any delay or failure in performance resulting from circumstances beyond its reasonable control, including but not limited to:

- acts of God;
- war, terrorism, civil unrest or riots;
- strikes, lockouts or labor disputes;
- governmental actions or restrictions;
- epidemics and pandemics;
- cyber-attacks or failure of information technology systems;
- interruptions of transportation or logistics networks;
- shortages of energy, raw materials or components;
- acts or omissions of suppliers or subcontractors.

The delivery period shall be extended by the duration of such event and a reasonable restart period thereafter.
Should such event continue for more than ninety (90) consecutive days, either party may terminate the affected order without liability.

(4) Retention of title

a) The goods remain our property up to the payment for them in full (p. 1). If the goods are processed with goods not owned by us, we are entitled to co-ownership of the new item in proportion to the value of the reserved goods to the other processed goods at the time of processing (p. 1). The terms and conditions regarding reserved goods also apply to the new item created by processing the reserved goods (p. 1). The buyer may dispose of the reserved goods in the ordinary course of business under its normal terms and conditions and as long as the buyer is not in default (p. 1). If the reserved goods are re-sold the buyer must give us the exact name/company name and the exact address of the buyer and must hand over the necessary information and records to allow us to collect those goods (p. 1). The customer shall have no further right to dispose of the reserved goods (p. 1). The receivables of the buyer from the resale of the reserved goods are hereby assigned to us, whether they are sold to one or several purchasers, and we are entitled to notify the third-party debtor of this assignment at any time (p. 1). If the buyer sells goods together with other goods not belonging to us, the assignment of the purchase price receivable from the resale shall amount only to the amount of the value of the reserved goods at the time the resold goods were delivered (p. 1). If the goods are resold following processing, particularly processing with other goods not belonging to us, the assignment shall amount only to the value of the reserved goods at the time of processing (p. 1). The buyer must immediately notify us of a seizure or any other interference by third parties (p. 1).

b) Potential access rights of third parties to goods that are subject to retention must be declared without delay (p. 1). This also applies to any insolvency applications, regardless of whether the application was filed by the company itself or by a creditor (p. 1).

c) Intellectual Property Rights

All drawings, specifications, designs, samples, prototypes, technical documentation, software, know-how and other intellectual property supplied or made available by the Seller shall remain the exclusive property of the seller.

No intellectual property rights or licenses are granted to the Buyer except as expressly agreed in writing.

The Buyer shall not reproduce, disclose, reverse engineer or transfer such information to third parties without the Seller's prior written consent.

d) Confidentiality

The Buyer shall keep confidential all commercial, technical, financial and business information received from the Seller.
Such information shall not be disclosed to any third party and shall only be used for purposes directly related to the performance of the contract.
This confidentiality obligation shall survive termination of the contractual relationship for a period of five (5) years.

(5) Payment terms

a) Our invoices shall be paid promptly to the seller without any deduction (p. 1). Any discount will be granted only if it is agreed or explicitly provided for in the relevant invoice and if all other bills are fully paid and no notes payable remain outstanding (p. 1).

All prices are exclusive of Value Added Tax (VAT), customs duties, withholding taxes and any other applicable taxes, which shall be borne by the Buyer unless otherwise expressly agreed in writing.

b) If payment is delayed, we will charge default interest at a rate of 12% per annum (or the maximum rate permitted by UAE law, whichever is lower) from the due date until full payment is received. Compounding of interest is strictly excluded. The buyer shall pay and indemnify the seller for all legal fees, debt collection charges, court fees, and out-of-pocket expenses incurred in the expedient pursuit and recovery of overdue amounts (p. 2).

c) Set-offs, reductions or retentions are allowed only if corresponding claims have been legally established (p. 2).

d) If our terms of payment are not honored or if circumstances arise that call into question the creditworthiness of the buyer, all of our claims shall become due immediately without regard to any such granted deferral (p. 2). In this event we can withdraw from the contract or claim damages for non-performance (p. 2).

e) Security for payment
If circumstances arise which, in the Seller's reasonable opinion, indicate deterioration of the Buyer's financial condition or creditworthiness, the Seller may require advance payment, a bank guarantee, an irrevocable letter of credit or other suitable security before continuing performance.
Failure to provide such security shall entitle the Seller to suspend deliveries or terminate the contract.

(6) Guaranties

a) The buyer must immediately inspect the goods on receipt for any defects, wrong deliveries and errors of quantity (p. 2). Complaints of any kind must be submitted in writing immediately on receipt of the goods, and hidden defects upon their discovery (p. 2). If no complaint is made or is not made at the proper time, the goods shall be deemed as being approved (p. 2). In such cases the assertion of warranty or damage claims and the right to avoid the contract on grounds of error due to defects are excluded (p. 2).

b) The non-conforming goods are to be kept at our disposal (p. 2). Any resale or working or processing of defective goods is forbidden and shall void the warranty and damage claims, unless we have approved of same in advance in writing (p. 2). If complaints prove justified we reserve the right to honor the warranty claim at our discretion by improvement, replacement, or a reduction in price (p. 2). The buyer must prove that the defect was present at the time of delivery (p. 2). Claims for damages of any kind, whatever the legal reason they are derived from, may be asserted only in the event of gross misconduct (malice, gross negligence) of the seller and on grounds of a lack of contractually assured characteristics (p. 2). The injured party must prove the existence of gross negligence or willful misconduct (p. 2). Furthermore, we assume no liability for loss of profit or for other financial losses of the buyer (p. 2). Our liability to third parties is expressly excluded (p. 2). If not expressly acknowledged by us in writing, damage claims shall expire within six months of the buyer becoming aware of the damage and of the party that caused the damage, and in any event in two years following the completion of performance or delivery (p. 2).

The Seller shall not be liable for aircraft grounding costs, loss of use, loss of revenue, delay penalties, passenger claims, charter costs, replacement aircraft costs or any other indirect or consequential damages arising in connection with aviation operations.

(7) Limitation of liability

a) The seller is liable for damages outside of the scope of the Product Liability Act only if willful misconduct or gross negligence on the seller’s part can be proven, in line with the statutory provisions (p. 2). Liability for slight negligence, damages for consequential loss and financial losses, loss of interest and damages from claims of third parties against the buyer are excluded (p. 2).

b) Limitation of Aggregate Liability
To the maximum extent permitted by applicable law, the Seller's total aggregate liability arising out of or in connection with any contract shall not exceed the amount actually paid by the Buyer for the goods giving rise to the claim. This limitation shall apply irrespective of the legal basis of the claim, whether contractual, tortious or otherwise.

c) Aviation Certification Disclaimer
The Buyer remains solely responsible for obtaining any aircraft, authority or operator approvals required for installation and use of the goods in a specific aircraft program. Unless expressly agreed in writing, the Seller does not warrant that the goods are approved for installation in any particular aircraft type, operator fleet or aviation authority jurisdiction.

(8) Governing Law and Jurisdiction

a) Governing Law

These terms and conditions, and any dispute or claim arising out of or in connection with them or their subject matter, shall be governed by and construed in accordance with the laws of the Emirate of Dubai and the federal laws of the United Arab Emirates.

b) Jurisdiction

The parties irrevocably agree that the courts of the Dubai International Financial Centre (DIFC Courts), including the Small Claims Tribunal (SCT) where the dispute falls within its jurisdiction, shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these terms and conditions. Notwithstanding the foregoing, the seller reserves the right to bring enforcement proceedings or seek interim relief against the buyer before the local Dubai Courts or any other court of competent jurisdiction where the buyer holds assets.

c) Severability

Should any provision of these Terms and Conditions be wholly or partially invalid, the remaining provisions shall remain fully effective (p. 2). The invalid clause shall be replaced by a clause that comes closest to fulfilling the aim of the clause in question (p. 2).