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1. Scope

(1) The following terms and conditions shall apply to all (including future) business relationships between FTE automotive GmbH or any of its affiliates (within the meaning of Art. 15 of the German Companies Act (AktG)) based in Germany (hereinafter referred to as "FTE") and the contractor (hereinafter referred to as "Supplier").

(2) These Terms and Conditions shall apply to all contracts (hereinafter referred to as "Contract" or "Order") by which FTE places orders for Services (hereinafter referred to as "Service" or "Services"), including, but not limited to, work and services. The production and supply of production material (material to be processed further in production) and of spare parts for motor vehicles shall not be covered by these Terms and Conditions.

(3) The Services within the meaning of these Terms and Conditions shall include, but not be limited to:

- services of all kinds
- personnel services of all kinds (e.g. development services)
- cleaning work of all kinds
- transport services
- maintenance work
- assembly work
- repair work
- surface treatment
- sorting work
- services in the field of electrical engineering

(4) These Terms and Conditions of FTE shall apply exclusively; any contrary or deviating conditions of the Supplier will not be accepted by FTE, unless an exclusive and written consent to their validity has been given. These Terms and Conditions of FTE shall apply even if, despite knowing any terms and conditions of the Supplier which are contrary to, or deviate from, these Terms and Conditions, FTE accepts Services of the Supplier.

2. Conclusion of Contract

(1) If the Supplier prepares an offer on the basis of a request for quotation made by FTE, he shall adhere to FTE's request for quotation exactly and, in the case of any deviations, point to such deviations expressly.

(2) If FTE does not refer to the Supplier's offer expressly in the order, such offer shall not become an integral part of the order. Apart from that, in the case of conflicts, individual agreements, the order and these Terms and Conditions shall prevail over the offer (in this order of priority).


(3) An order within the meaning of these Terms and Conditions shall be any written request for the provision of the contractually agreed work or service which is sent to the Supplier by FTE.

(4) The Supplier shall check any documents pertaining to a request for quotation for completeness immediately after their receipt and request the submission of any missing parts or information without delay.

(5) The Supplier shall be obliged to expressly point to any gaps or contradictions in the request for quotation, including its integral parts, which he has identified and/or which are identifiable by a specialised enterprise using the degree of diligence that is possible and reasonable for it.

(6) If the Supplier does not accept the order in writing within 10 working days (at the ordering factory) after its receipt, FTE shall be entitled to cancel such order.

(7) Only orders placed in writing shall be legally binding. Orders placed orally or by telephone shall require a subsequent written confirmation to be legally valid. The same shall apply to any oral side agreements or changes to the Contract.

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(8) No remuneration shall be paid for visits, the preparation of offers, project work or the like, unless remuneration has been agreed expressly or an inalienable legal claim for it exists.

(9) If FTE can prove, by presenting a transmission report, that FTE has sent a statement or declaration by fax or remote data transmission, it shall be assumed that the Supplier has received such statement or declaration.

(10) FTE may request changes to the contractually agreed Service at any time. The Supplier may object to the change request insofar as the implementation of the change request is not reasonably acceptable for him. For such additional and further services, the Supplier shall make FTE a new written offer of contract. The additional Services may only be provided after the conclusion of a separate individual contract for such Services. No remuneration shall be paid for Services of the Supplier which do not fulfil said prerequisites. If no agreement is reached, FTE may terminate the Contract on the Services to be changed extraordinary without notice if it is not reasonably acceptable for FTE to continue the contract without the requested change.

3. Performance of Contract

(1) In the case of time work, any additional time work becoming necessary may only be performed upon the express written instruction of FTE.

(2) Unless otherwise agreed, reports shall be submitted to FTE for signature on a daily basis without specific request as a single original together with one carbon copy. The reports must contain at least the following information: name of the client, order and billing data, name and qualification of the person executing the work, Service performed, commencement and end of the work, duration of the work, materials consumed.

(3) FTE shall immediately, but no later than six working days after the receipt of each report, return the single original of the report to the Supplier without the carbon copy. Saturdays shall be considered as working days.


(4) FTE may make objections in writing, either on the report sheets themselves or separately.

(5) The Supplier shall submit the signed reports together with the related invoices. No settlement shall be performed for reports against which objections have been made.

(6) The scope of the Contract shall include the provision of all tools necessary for the performance of the Service, particularly machines, equipment and scaffolding. If FTE provides such items in individual cases, the Supplier shall be liable for any damage to such items which does not result from normal wear and tear. Any liability of FTE for items of the Supplier shall be excluded insofar as no grossly negligent or wilful acts of FTE or employees of FTE have occurred.

(7) The Supplier shall request the documents necessary for the performance of the Service from FTE. If the Supplier realises that the specifications or any other requirements of FTE are objectively unfeasible, faulty, incomplete or unclear, or if he has any other doubts, he shall inform FTE thereof in writing immediately.

(8) The Supplier undertakes to perform all Services according to the state of the art and the applicable regulations and guidelines of public authorities, trade associations and professional bodies and to fulfil any duties to implement safety precautions. If deviations from such regulations are necessary in individual cases, the Supplier must obtain a written consent to them from FTE. The Supplier's warranty obligations shall not be restricted by such consent.

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(9) The Supplier undertakes to adhere to applicable provisions of the law. He guarantees the environmental compatibility of the products and packing materials supplied by him as well as the compliance with his statutory waste disposal obligations. During the performance of the Services, the Supplier shall have a particular obligation to exercise diligence as regards substances that are hazardous to the environment. If such substances exist or are released, the Supplier shall inform FTE thereof immediately.

(10) The Supplier shall perform the contractually agreed Services himself. If the Supplier intends to employ third-party contractors for the performance of his obligations, he shall require FTE's written consent before concluding the subcontracts. The Supplier shall be liable for his subcontractors and suppliers as he is liable for his own faults.

(11) Only the Supplier shall be responsible for ensuring that the Services will be executed and performed in compliance with the Contract under his own responsibility. However, FTE shall be entitled to supervise the execution and performance of the work through his own representatives at any time. The Supplier shall grant FTE appropriate access rights at the place at which each Service is performed.

(12) For activities on business premises of FTE, the guidelines for subcontractors as well as any other relevant FTE regulations shall be applicable together with the order. The Supplier shall be informed of such regulations separately. The Supplier shall obtain information on the requirements existing at the location of performance from FTE's occupational health and safety, environmental protection and fire protection experts who are in charge. Any measures taken shall be coordinated.

(13) On FTE's request, the Supplier shall prove that the social insurance cover required by law exists for all staff that is assigned with the work. For important reasons, the Supplier's staff may be refused access to the business premises.

(14) The Supplier shall perform the Service and any tasks assigned to him in his own responsibility. He shall supervise the staff assigned by him to the necessary extent. Only the Supplier shall be authorised to give instructions to the Supplier's employees. The Supplier shall ensure that an integration of the staff assigned by him into a plant of FTE or a company of the FTE Group will not take place.

(15) Before the performance of the Service commences, the Supplier shall take over the place of such performance and verify its correctness. If a complaint about the Supplier's Service is made at a later date, the Supplier may only refer to defects of the preliminary work which were identifiable for the Supplier if the Supplier has pointed to them in writing immediately after the examination of the preliminary work.


4. Remuneration and Terms of Payment

(1) The remuneration for the Service shall not be paid until the complete performance of the Service, unless otherwise agreed. If the Parties agree partial payments, such partial payments shall not be made until the complete performance of the related partial Service. Any agreements on due dates shall remain unaffected thereby.

(2) The Supplier shall be bound by any agreed upper remuneration limits and fixed prices as well as any cost estimates performed prior to the conclusion of the Contract, unless they are referred to as non-binding expressly in the Order.

(3) If a fixed price has been agreed for a Service, the Supplier shall perform such Service completely at the agreed price. Any additional expenses for the complete performance of agreed Services shall be borne by the Supplier. Any subsequent claims shall be excluded.

(4) An agreed remuneration shall be payable net within 30 days after the proper invoicing.

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5. Due Dates, Delays in Delivery

(1) Unless expressly agreed otherwise, the due dates mentioned in the Order shall be binding; the Supplier shall be in delay upon the expiry of a fixed due date without any reminder being necessary. The Supplier shall be obliged to inform FTE in writing immediately if it becomes obvious that a due date cannot be complied with.

(2) In the case of a delay by the Supplier, FTE may, for each full week of the delay, claim liquidated damages due to delay amounting to 1% of the individual price of the Service whose performance by the Supplier is delayed, but no more than a maximum of 5% of the total Order value; any further statutory claims (withdrawal from the Contract and damages instead of performance) shall remain reserved. The Supplier shall be entitled to prove that as a result of the delay, no damage or considerably less damage has been suffered.

(3) In the case of a delay, FTE may, after the fruitless expiry of an adequate grace period set by it, perform the Services not yet performed by itself, or have them performed by third parties, at the Supplier's expense. The Supplier shall immediately submit any documents which are necessary for this purpose. Instead, FTE may also withdraw from the Contract. In the case of services, the right to withdraw shall be replaced by a right to terminate the Contract for cause.

6. Delivery and Dispatching Rules

(1) The requirements on delivery and dispatch of FTE as well as FTE's requirements on packing materials shall be observed. The packaging shall be limited to the extent necessary for the protection of the goods and may only consist of environmentally compatible and recyclable materials. Unless otherwise agreed, the Supplier shall take back packaging.

(2) Any costs incurred by FTE as a result of any non-compliance with the requirements on delivery, dispatch and packing materials shall be reimbursed by the Supplier.

7. Acceptance

(1) In the case of Services for which acceptance is possible, the Supplier shall, unless otherwise agreed, request the acceptance in writing. The acceptance date shall be agreed between the Parties within a reasonable period after the receipt of the request for acceptance.

(2) The non-personnel costs incurred for the acceptance shall be borne by the Supplier, with each Party bearing its own personnel costs. For each acceptance, the Parties shall prepare a written acceptance protocol.

(3) An acceptance shall only be considered to have taken place if FTE acknowledges the Service as being in compliance with the Contract in a written declaration, or fails to make such declaration wilfully or in a grossly negligent manner although it is obvious that the performance was in compliance with the Contract.


(4) In case no acceptance has taken place, FTE shall inform the Supplier of the defects found. Regardless of the aforesaid, it shall be equivalent to an acceptance if FTE does not accept the Supplier's work within a reasonable period fixed by the Supplier (at least 14 days) although FTE is obliged to do so.

(5) An acceptance cannot be deduced solely from the fact that the use of the Service has started or the Service has been paid for.

(6) Any partial acceptance shall not result in any legal consequences defined for the acceptance.

8. Liability

The Supplier shall be liable according to the provisions of the law, unless otherwise stipulated in these Terms and Conditions.

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9. Warranty

(1) The Supplier warrants that the Services will be performed free of defects and defects of title and in accordance with the provisions of the law.

(2) If the purpose of the Service is known, or has been mentioned, to the Supplier, the Supplier's warranty shall also include the suitability of the Service for the intended purpose.

(3) FTE may remove any defect of the Service himself, or have it removed by third parties, at the Supplier's expense if it is not reasonably acceptable for FTE to wait for the removal of the defect by the Supplier, particularly if an immediate removal of the defect is necessary for averting considerable damage or guaranteeing operational safety. This shall only apply if the Supplier cannot refuse the removal of defects according to the provisions of the law.

(4) The period of limitation for the liability for material defects and defects of title shall be two (2) years. For Services for which acceptance is possible, the period of limitation for the liability for material defects and defects of title shall commence upon the acceptance of the entire Service; for all other Services, it shall commence upon their completion.

(5) For corrected or replaced Services, a new period of limitation for the liability for defects and defects of title shall commence upon the written acceptance of such Services; for Services for which an acceptance is not possible, the period shall commence upon the completion of the Services.

10. Rights to Results of Work, Copyrights


(1) Only FTE shall be entitled to any rights of use which are created in connection with the performance of an agreed Service for documentation, reports, charts, diagrams, images, films, carriers of data for visual reproduction, data carriers etc.

(2) FTE shall become the owner of all documents which are supplied by the Supplier and prepared during the performance of the agreed Service. For said documents as well as any other results and unprotected knowledge arising from the performance of the agreed Services, FTE shall be granted an exclusive, irrevocable and transferable right of use for all types of use, which shall be unlimited as regards time, place and content. In particular, said right shall include the right of reproduction, dissemination, exhibition, lecture, presentation and reproduction from image and sound carriers as well as the right of editing and modification.

(3) If during the performance of the agreed Service, existing industrial property rights, copyrights or unprotected knowledge (know-how) of the Supplier are used and such rights and know-how are necessary for the utilisation of the results of work by FTE, FTE shall be granted a non-exclusive right to use such industrial property rights, copyrights and unprotected knowledge (know-how). Such right shall comprise all types of use.

(4) The Supplier warrants that all Services provided will be free of third-party rights. If this is not the case, he must agree with the creators contractually that he will be able to grant the above rights. He shall indemnify FTE against any and all claims of third parties which they make against FTE due to the infringement of rights to the Service performed by the Supplier.

(5) The Supplier shall immediately inform FTE of all inventions or other results capable of being protected which are created in connection with the Service performed for FTE and shall furnish all necessary particulars to FTE. All inventions shall be transferred to FTE. If FTE is not interested in the registration of a property right for an invention, FTE shall transfer the invention back to the Supplier. In such case, FTE shall continue to hold a simple, gratuitous and unrestricted right of use.

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11. Insurance

The Supplier shall be obliged to ensure adequate insurance cover in view of his obligations and to prove this to FTE at any time on request.

12. Compliance, Data Protection

(1) The Supplier undertakes to adhere to the applicable statutory rules concerning relationships with employees, environmental protection and occupational safety. Furthermore, the Supplier shall observe the principles of the Global Compact Initiative of the UN. Said principles especially concern the protection of international human rights, the right to collective agreements, the abolishment of forced and child labour, the elimination of discrimination in employment, the responsibility for the environment and the prevention of corruption. Further information on the Global Compact Initiative of the UN is available on www.unglobalcompact.org.

(2) The Supplier shall be obliged to comply with all provisions of data protection laws, as amended from time to time, and will adhere to them. The Supplier shall instruct all of his employees in accordance with the relevant provisions of data protection laws and obligate them to data secrecy. The relevant declarations shall be presented to FTE or its data protection officers on request.

13. Compliance with the German Minimum Wage Act (MiLoG)

(1) The Supplier shall ensure that he and his subcontractors will comply with the provisions of the German Minimum Wage Act (MiLoG), particularly with their obligation to pay the minimum wage.

(2) The Supplier shall, upon first request, indemnify FTE against all claims of third parties which are made against FTE due to a violation of the Supplier or of the Supplier's vicarious agents against the MiLoG. Third parties within the meaning of the aforesaid provision shall include, but not be limited to, the employees of the Supplier or of any subcontractor. The Supplier's obligation to indemnify shall also apply to any and all sanctions, fines or other measures or claims which are made or taken against FTE by public authorities or other organisations due to any violations of the MiLoG by the Supplier or any subcontractor as well as any and all costs incurred in connection with the related legal defence.

14. Tools, Provisions

(1) If FTE provides materials or other items to the Supplier, they shall remain property of FTE.

(2) Any processing, mixture or combination by the Supplier shall be performed in the sense of Art. 950 of the German Civil Code (BGB) for FTE as the manufacturer. If, in the case of any processing, mixture or combination with items of third parties, the ownership rights of such third parties continue to exist, FTE shall acquire co-ownership of the new item in the ratio of the value of the item provided by FTE to that of the other items at the time of the processing, mixture or combination. The Supplier shall take stock at least once per year at his own expense. Any costs resulting from any deviations found during such stocktaking shall be borne by the Supplier.


(3) Means of production and test equipment which are provided by FTE or paid by FTE (directly or by amortisation) shall become or remain property of FTE – including any accessories and documentation – and shall be marked as such by the Supplier.

15. Contract Term and Termination

(1) The Contract concluded between the Parties shall have the agreed term. It may be terminated by either Party in writing with 3 months' notice as of the end of each quarter.

(2) The Parties' right to terminate the Contract for cause shall remain unaffected. An important cause for termination shall be deemed to exist in particular if:

- the opening of insolvency proceedings concerning the other Party's assets has been applied for, or

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- the insolvency proceedings concerning the other Party's assets have been opened or their opening has been refused for lack of assets, or
- proceedings for taking an affidavit from the other Party are carried out.

In addition, an important cause for a termination by FTE shall be deemed to exist if:

- it is evident that the execution of the Order is at risk due to the Supplier's insufficient capability, or
- the Supplier or his legal successor does not perform the Service in compliance with the Contract despite a reminder with an adequate grace period being set, or
- facts become known which give rise to the assumption that the Supplier is quasi-self-employed.

(3) If FTE makes use of his right to terminate due to a violation of the Contract by the Supplier, the Services which have been performed by that time shall only be settled at Contract prices insofar as they can be used for the intended purpose by FTE. The settlement shall be performed on the basis of the Contract. Any damages to be paid to FTE shall be taken into account in the settlement.

(4) The provisions contained in Sections 10 and 16 of these Terms and Conditions shall continue to be effective after the termination of the Contract.

16. Secrecy, Use of Information

(1) The Supplier undertakes to treat as confidential all commercial or technical details which are not obvious and come to his knowledge during the business relationship, not to share them with third parties without FTE's consent and to use them only for the purpose on which their disclosure is based. This shall also apply after the termination of the Contract, provided that the information is not obvious. To the extent permitted by law, employees of the Supplier shall be obligated accordingly.

(2) FTE reserves all property rights and copyrights to all samples, drawings, drafts and other corporeal and incorporeal information which has been provided by FTE. Such information shall only be used for the agreed Service.

17. Miscellaneous


(1) Should individual parts of these Terms and Conditions be legally ineffective, the effectiveness of the remaining provisions shall remain unaffected. The same shall apply if these Terms and Conditions contain a regulatory gap. For filling a regulatory gap, those effective provisions shall be considered agreed which the Parties would have agreed in view of the economic purpose of these Terms and Conditions if they had identified the regulatory gap.

(2) Unless expressly agreed otherwise, the place of performance for the Supplier's obligation to perform Services shall be the address for dispatch or location of use which is desired by FTE.

(3) The Contract language shall be German. If the Parties use multilingual documents with additional languages, the German text shall have priority.

(4) To the relationship between the Supplier and FTE, only the law of the Federal Republic of Germany shall apply, with the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 being excluded.

(5) For all disputes arising from the contractual relationship, the suit shall – if the Supplier is a registered trader, a corporate body under public law or a special fund under public law – be filed at the court that is competent for the relevant place of business of FTE. FTE shall also be entitled to sue the Supplier at any other permitted place.

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(6) All changes and additions to these Terms and Conditions of Purchase, including this written form clause, shall require the written form.