

# Lufthansa Aviation Training USA Inc.

## General Purchasing Conditions

### 1. Definitions

LAT US	Lufthansa Aviation Training USA, Inc., a United States company with registered seat at 1658 South Litchfield Road, Goodyear, AZ 85338, U.S.A, who is the buyer of Goods and/or Services under the Contract.
Supplier	Natural person or legal entity who is the seller and supplier of Goods and/or Services under the Contract.
Recipient	Natural person or legal entity who receives the Goods and/or Services in the name and/or on behalf of LAT US. In certain cases, LAT US may be the Recipient.
Contract	The sales and purchase agreement between LAT US and Supplier regarding the sale and supply of Goods and Services consisting of an individual contract (be it in form of a frame contract and these GTC)
Parties	LAT US and Supplier (and "Party" shall mean either of them).
Goods	All goods covered by the Contract.
Services	All services covered by the Contract.
Supplies	Goods and/or Services as applicable
GTC	These General Terms and Conditions.

### 2. Scope of Application of these GTC and Order of Precedence

These GTC govern the conclusion and content of and performance under a Contract. These GTC are binding for the entire present and future business relationship between the Parties and apply to all purchase orders made by LAT US, even if these GTC are not expressly incorporated by reference. With conclusion of the Contract and acceptance of a purchase order the Supplier assents to these GTC.

Unless explicitly agreed in writing by LAT US, no terms and conditions submitted or referred to by any Supplier when tendering, confirming a Contract, delivering Goods, rendering Services or issuing invoices shall become part of the Contract. In case of inconsistency between the terms of the individual contract (and the documents referred to therein) and these GTC, the former shall prevail.

### 3. Conclusion of the Contract

The Contract and each purchase order have to be made in writing. In case of disrespect of this written form requirement LAT US is entitled to reject the Goods and Services and/or deny payments of such Supplies.

LAT US may amend and/or modify and/or cancel the purchase order or withdraw from a contract offer until receipt of acceptance of the purchase order or the contract offer by the Supplier. The supplier has to provide the written order confirmation within 2 weeks.

### 4. Engagement of Third Parties

The Supplier may engage third parties for the performance of the contractual obligations only with prior written consent of LAT US. In any case the Supplier shall remain responsible and liable for the services rendered by the engaged third parties. The Recipient acts on behalf of LAT US in all contractual matters related to the Contract.

### 5. Delivery and Acceptance

#### 5.1 General

The Supplier shall deliver the ordered Supplies according to the Incoterms 2010 as specified in the Contract. If there are no specified Incoterms stated in the Contract then DDP (Delivered Duty Paid) shall be applicable.

All deliveries must include a delivery note stating the Recipient concerned and any other information required in the Contract. The Supplier shall include details of the origin and the customs tariff number of the Goods on the invoice as well as on the delivery note. The Supplier shall be liable for any additional customs, duties and related costs caused by a lack of such details. Benefit, risk and title of the Goods shall pass to LAT US upon delivery and acceptance of the Goods at the place of delivery.

### **5.2 Place of Delivery / Place of Performance**

The place of delivery of Goods respectively place of performance of Services shall be the delivery or performance address respectively of the Recipient as stated in the Contract. The Supplier will be held responsible for any additional expense incurred in the delivery of Goods to an incorrect destination or the rendering of Services at the incorrect place.

### **5.3 Delivery deadlines**

All agreed deadlines are binding. If the Supplier fails to meet agreed deadlines, he is considered in default immediately upon the expiration of such deadline. Partial deliveries and advance deliveries may only be made if approved in advance and in writing by LAT US or Recipient. In case of call-off orders, the Supplier must deliver the Goods within five days after having received the request, unless otherwise stated in the Contract. All requests for such call-off orders must be made in writing.

### **5.4 Late or incomplete delivery**

In case of late delivery, the Supplier has to inform LAT US and the Recipient immediately in writing about the fact and the reasons of such delay and the expected delivery date.

In case of late or incomplete delivery of Goods the following compensation is agreed:

- delay of up to 2 days: no compensation
- delay of 2 to 5 days: 20% reduction of the price of the Goods concerned
- delay of 5 to 10 days: 40% reduction of the price of the Goods concerned

- delay of more than 10 days: 60% reduction of the price of the Goods concerned.

In addition to the compensation above in case of late or incomplete deliveries of more than 10 days or in case of repeated late or incomplete deliveries of a total of more than 20 days LAT US has the right to terminate the Contract and annul the purchase order with immediate effect in writing.

The payment of any compensation under this clause does not alter Supplier's obligation of on-time delivery and LAT US keeps all legal and contractual rights and remedies for late or incomplete delivery. The Supplier shall not be deemed to be in default on account of delays in delivery due to events of Force Majeure as set forth below or due to reasons attributable to LAT US or the Recipients.

### **5.5 Packing**

The Supplier shall deliver the ordered Supplies in appropriate packing, which should however be kept to a minimum. The Recipient is entitled to return all re-usable packing material to the Supplier and LAT US is entitled to obtain credit for the same. All packing units must have a label showing content, quantity LAT US as well as any other information required in the Contract. All packing units must contain only Goods of identical nature. The Supplier ensures that the necessary certificates and documentation for the Goods are enclosed within the package of the goods.

All packaged food items must show their date of production and their use-by date. In case of dangerous or hazardous Goods, the packaging must contain clear indications conform to the relevant regulations and laws.

### **5.6 Contracts of carriage and insurance**

The Supplier must organize the transport of Goods at its own risk and expense to the place of delivery. Instructions in the Contract related to means of transportation and the choice of the carrier must be observed.

The Supplier shall have an appropriate insurance cover for loss of and/or damage to the Goods delivered. LAT US shall on

request obtain written confirmation of such insurance cover from the Supplier.

### **5.7 Examination and Acceptance**

The Recipient of Supplies shall examine the Goods delivered within thirty (30) days of delivery. The Recipient of Supplies shall have the right to reject Supplies which are not in accordance with the Contract. Payments for the Supplies shall not be regarded as acceptance of the delivery. Acceptance of Supplies does not prejudice any warranty rights for hidden defects of any Supplies. Services are accepted by providing a signed acceptance protocol.

### **6. Price**

All prices shall be binding and remain unchanged for at least twelve (12) months from receipt of the quotation. All prices shall include all direct discounts, packing, transport, insurance, custom fees and any taxes with the exception of the value added tax.

All costs or compensation with regard to the sale and delivery of Goods and/or the performance of Services which are not specifically determined in the Contract shall be borne by the Supplier.

### **7. Terms of Payment**

The Supplier shall issue an invoice as stated in the Contract in the currency agreed for the Supplies. Invoices have to be submitted electronically according to the current e-invoicing procedure of LAT US.

Therefore, the e-Mail [ap@lat-us.com](mailto:ap@lat-us.com) for LAT US has to be used.

Payment shall be effective net within thirty (30) days as from the day on which LAT US has received the invoice in conformity with this clause.

## **8. Warranty**

### **8.1 Warranty of Quality**

The Supplier warrants that all Goods and/or Services:

- are in accordance with the Contract,

- correspond strictly with any and all descriptions, advertisements, brochures, drawings, specifications and samples given by Supplier or stipulated in the Contract;
- are fit for all purposes for which the Goods in question are supplied and for any other purpose LAT US has expressly made known to the Supplier;
- are of perfect quality and free from any defects;
- are in compliance with all applicable national and international laws and standards, in particular any applicable health, safety and employment regulations;
- are carried out with proper and reasonable skill and care and to the highest professional standards;
- comply with any other quality standard which LAT US may not have specifically stated but which the Supplier can reasonably assume.

### **8.2 Remedies for Breach of Warranty**

The warranty period shall extend for twenty-four (24) months following acceptance of the delivery.

In case of breach of a warranty obligation by the Supplier LAT US is entitled to ask – at its own discretion – the prompt rectification of the deficiency free of charge or the replacement of the Goods concerned. In the case the Supplier fails to rectify the deficiency or replace the defective Goods within a for LAT US acceptable time, LAT US is entitled to either request a reduction of the purchase price, to withdraw from the Contract or to buy a substitute product from a third party in which case the Supplier shall be liable for the price difference.

If damage has occurred due to the breach of warranty, the Supplier shall in addition be liable for its compensation.

## **9. Liability**

The Parties shall be liable for any damage caused by negligence or wilful intent to the other Party or to the Recipient.

The Parties shall be liable for the conduct of their staff members and other auxiliary persons as well as third parties engaged for the purpose of performance of the Contract (e.g. sub-suppliers, subcontractors, substitutes) in the same way as for their own conduct.

#### **10. Intellectual Property Rights**

The Supplier warrants that all Goods delivered and all Services rendered do not infringe any third party's registered or non-registered foreign or domestic intellectual property right, such as patent, design, trade mark, service mark, copyright, right of confidence or know-how.

The Supplier will indemnify and hold LAT US, its employees and the Recipient harmless for and against any claims, demands, costs and damages (including reasonable attorney fees) relating to the infringement of any third party's intellectual property right by the Goods and/or Services of the Supplier.

#### **11. Export Regulations**

The Supplier warrants and shall be liable for respecting all applicable export and customs regulation. Any documentation thereto shall be provided by the Supplier free of charge.

#### **12. Audit**

LAT US and/or the Recipient of Supplies reserve the right to inspect the Goods and supervise the Services at any time before or after the delivery at the premises of the Supplier (or any sub-contractor of the Supplier). The Supplier shall ensure that the agreements with its sub-contractors permit such inspection. Such inspection or supervision shall not relieve the Supplier of any obligation under the Contract.

#### **13. Confidentiality Obligation and Data Protection**

Each Party (the "Receiving Party") shall keep secret and shall not disclose any information and personal data provided by the other Party (the "Disclosing Party"), including information concerning the business, operation or customers of the Disclosing Party and its suppliers (the "Confidential Information"), to any third party. In cases of doubt, facts and information shall be treated confidentially. The Parties are

obliged to take all economically reasonable and technically and organizationally possible measures to ensure that Confidential Information is effectively protected from access and knowledge by unauthorized parties. For the purpose of this provision Lufthansa Group companies shall not be considered as a third party.

The Receiving Party may communicate Confidential Information to its employees, suppliers, contractors and consultants only to the extent necessary to fulfil the Contract, only on a strict "need to know" basis and only under the condition such employees, suppliers, contractors or consultants are bound by a confidentiality obligation equivalent to the obligations the Receiving Party has under this clause.

No Party shall be deemed to be in breach of Contract by reason of any delay in performing, or any failure to perform, any of its respective obligations, if the delay or failure was due to any cause beyond its reasonable control, including but not limited to acts of Gods, explosions, floods, fire or accident, war, terrorism, civil disturbance, import or export regulations or embargoes ("Force Majeure Event").

In the event of either Party being so hindered or prevented by a Force Majeure Event, such Party shall give notice of suspension as soon as reasonably possible to the other Party stating the date and extent of such suspension and the cause thereof. Any Party whose obligations have been suspended as aforesaid shall resume the performance of such obligations as soon as reasonably possible after the removal of the Force Majeure Event and shall notify the other Party hereof.

#### **14. Force Majeure**

In the event that a Force Majeure Event continues for more than sixty (60) days, either Party may terminate the Contract with immediate effect.

#### **15. Compliance with the Law and the UN Global Compact Principles**

The Supplier must comply with all applicable laws and regulations.

### **15.1 Corporate Social Responsibility**

The Supplier must commit to abide to the ten principles of the UN Global Compact. To this end, the Supplier

- supports and respects the protection of internationally-proclaimed human rights in its own area of influence;
- ensures that it is not complicit in human rights abuses;
- upholds freedom of association and the effective recognition of the right to collective bargaining;
- is opposed to any form of forced labour;
- is opposed to child labour;
- upholds the elimination of discrimination in respect of employment and occupation;
- supports a precautionary approach to environmental challenges;
- supports initiatives to promote greater environmental responsibility;
- encourages the development and diffusion of environmentally friendly technologies;
- is opposed to corruption in all its forms, including extortion and bribery.

### **15.2 Improper Advantage**

The Supplier must never, either directly or through intermediaries, offer or promise any personal or improper advantage in order to obtain or retain a business or other advantage from a third party, whether public or private, whether the activity is related to LAT US or a third party. Nor must the Supplier accept any such advantage in return for any preferential treatment of a third party.

## **16. Miscellaneous**

### **16.1 Advertising**

Without written consent, the Supplier may not mention or otherwise draw attention to its relationship with LAT US or the Recipient in its advertising or in any other form.

### **16.2 Correspondence**

All correspondence (e.g. invoices, shipment notifications, delivery notes, samples and similar) shall include the correct address of the Parties.

All paper-based invoices have to be sent to the respective following address:

#### **Lufthansa Aviation Training USA, Inc.**

GYR N/UC Accounting  
1658 South Litchfield Road  
Goodyear, AZ 85338

LAT US prefers to receive paperless invoices using the following e-mail address [ap@lat-us.com](mailto:ap@lat-us.com) for LAT US.

### **16.3 Modification of the Contract**

The Contract may only be modified or amended by a document signed by both Parties. Any provision contained in the Contract may only be waived by a document signed by the Party waiving such provision.

### **16.4 Assignment**

The Contract and/or any rights and obligations thereunder may only be assigned by a Party to third parties with the prior written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing LAT US is entitled to assign the Contract or any rights and obligations thereunder to any affiliated company of the Lufthansa Group.

### **16.5 Severability**

Should any part or provision of the Contract be held to be invalid or unenforceable by any competent authority having jurisdiction, the other provisions of this Contract shall nonetheless remain valid. In this case, the Parties shall negotiate in good faith a substitute provision that best reflects the economic intentions of the Parties without being unenforceable and shall execute all agreements and documents required in this connection.

## **17. Applicable Law and Place of Jurisdiction**

### **17.1 Applicable Law**

Contracts concluded with LAT US shall be governed by and construed in accordance with the substantive laws of the State of Arizona, U.S.A., with the exclusion of the Vienna Convention on the International Sale of Goods dated April 11, 1980.

### **17.2 Place of Jurisdiction**

All disputes arising out of or in connection with the Contract, including disputes on its conclusion, binding effect, amendment and termination, shall be exclusively resolved in case of LAT US by the competent State and Federal Courts of Arizona, U.S.A.