

General Terms and Conditions

of:
the private company with limited liability:
FUJITSU COMPONENTS EUROPE B.V.,
hereafter to be referred to as: "FCEU",
of Hoofddorp, The Netherlands,
filed at the Offices of the Clerk of the District Court of Amsterdam under no. 179/1996
on 30 September 1996

GENERAL

1. All orders are accepted, goods supplied and quotations submitted subject to and upon these General Terms and Conditions, and no addition or variation thereto shall apply unless specifically agreed in writing by an authorised representative of FCEU.

All offers are without obligation, and contracts shall only come into existence through subsequent written acceptance of orders received.

If the present General Terms and Conditions should conflict with any standard terms and conditions used by purchasers, potential purchasers or principals, hereafter to be referred to both jointly and (or) severally as: "the Buyer", the present General Terms and Conditions shall prevail.
The applicability of any standard terms used by the Buyer is hereby explicitly excluded.

QUOTATIONS AND ORDERS

2. Any quotations issued by FCEU shall be non-binding, unless the contrary should be explicit from the quotation.

The Buyer's orders and (or) commissions shall not be binding on FCEU until it has confirmed them in writing. The confirmation shall be considered to be a correct record of the agreement unless the Buyer has lodged an objection within 5 days of despatch.

PRICES

3. A. In the event of fluctuation of current foreign exchange rates between quotation/proposal/acknowledgement and delivery such fluctuation (whether up or down) may be reflected in the invoice price.

B. All export duties and related fees which FCEU may be required to pay in connection with shipments to the Buyer shall be paid by the Buyer in addition to the price(s) quoted.
On material returned by the Buyer, the Buyer shall be responsible for all freight and brokerage charges and all charges that may be levied by Customs.
On material returned by FCEU to the Buyer, the Buyer shall be responsible for all charges that may be levied by Customs.
For material returned by FCEU to the Buyer which FCEU has repaired under Warranty or replaced under Warranty, FCEU will hold the Buyer harmless from all Customs charges applicable to such material that may be levied, provided the Buyer can demonstrate to FCEU that all reasonable steps allowable under the regulations of the Customs authorities have been taken by the Buyer to obviate the payment of such charges.

C. Any and all applicable excise, sales, use or similar taxes and any transportation charges except as otherwise stated by FCEU, shall be paid by the Buyer in addition to the price(s) quoted by FCEU. In lieu of any tax, the Buyer may provide FCEU with a tax exemption certificate acceptable to the taxing authorities.

PAYMENT AND DEFAULT

4. Payment must be made within 30 days of the invoice date, unless other payment conditions have been agreed in writing.

Payment shall first be deducted from the costs and subsequently from the interest which has become due and shall thereafter be deducted from the oldest outstanding principal and the current interest.

If the Buyer should fail to comply with the period referred to above, it shall be in legal default, in which event it shall be required to pay 1.5% interest per month over the entire sum of the invoice, commencing on the date on which the purchase price became payable.

The Buyer shall not be authorized to make any deductions from the purchase price on account of any counter-claims it may allege against FCEU.
The Buyer shall be liable for all the collection costs, including judicial and extra-judicial costs incurred as a result of its default. FCEU shall provide evidence of these costs, inter alia, by submitting the statement of fees it receives from its legal advisors.

If the Buyer should fail to comply with any obligation in respect of FCEU in pursuance of the agreement, agreements connected therewith or agreements entered into previously or thereafter, or if FCEU has reasonable grounds to believe that the Buyer shall not comply or shall not be able to comply with any obligation as described above, FCEU shall be authorized, at its discretion:

A. to require advance payment or proper security for payment, or cash on delivery for payment obligations arising from any current or future agreements;

B. to suspend deliveries (and to suspend the fabrication and processing of the goods intended for delivery), without prejudice to FCEU's right to claim simultaneous or subsequent security payment;

C. to terminate the relevant purchase agreement in whole or to the extent not executed, with immediate effect;

D. to terminate one or more, or all the current purchase agreements in respect of which the Buyer has not defaulted, in whole or to the extent not executed, with immediate effect, without prejudice to FCEU's right to claim complete compensation of damage.

If, in FCEU's judgement, the Buyer's financial condition does not justify continuing the existing terms of payment, FCEU may require full or partial payment in advance of shipment or may otherwise change the credit terms. Each shipment shall be considered a separate and independent transaction.

AVAILABILITY OF GOODS EX STOCK

5. Offers ex stock are subject to goods being unsold at the time of receipt of order.

RECEIPT

6. Receipt of the goods the subject of this contract ("the Goods") shall be deemed to take place:

A. when the goods are collected by the Buyer or his agent from the works or warehouse of FCEU; or

B. if the goods are to be transported by FCEU or by its agents: when the goods are physically delivered to the Buyer's place of business or such other place as the Buyer may reasonably nominate; or

C. if the goods are to be transported by the Buyer's carrier or an independent carrier at the Buyer's risk: when the goods are physically delivered by FCEU to such carrier; or

D. if C.I.F. prices are quoted: when the goods are physically delivered to the carrier/shipper.

The goods supplied shall be for the Buyer's risk as of the point of receipt.

The Buyer shall be obliged to check the goods supplied for any shortfall of visible damage immediately upon receipt, or to do so after FCEU's notification that the goods are at the Buyer's disposal.

PROPERTY AND RISK

7. No property of any of the goods sold, and (or) received by the Buyer, and (or) physically delivered shall pass to the Buyer until payment of any and all amounts due to FCEU shall have been fully made, irrespective whether such amounts due constitute the purchase price of these goods or are due for other reasons.

Accordingly, FCEU shall be entitled on default in payment to repossess the goods and the Buyer shall do all in its power to enable FCEU so to do. Until property in the goods has passed to the Buyer:

A. the Buyer shall take proper care of the goods and take all reasonable steps to prevent any damage or deterioration thereto and shall allow FCEU to inspect them if FCEU so requires;

B. the Buyer must keep the goods free from any charge, lien, or other encumbrance and store the goods in such a way as to show clearly that they belong to FCEU;

C. the Buyer shall give FCEU all such information relating to the goods as FCEU may require.

FCEU shall be authorized to collect these goods from the Buyer at any time, to arrange for this to be done, or to repossess or store them elsewhere if the Buyer should fail to comply its obligations in respect of FCEU or should fail to do so in full and (or) time, or if it has become clear that the Buyer shall not be able to comply with its obligations in respect of FCEU or shall fail to do so in full and (or) time.

FCEU shall have this right in particular, but not exclusively, if the Buyer has applied for or been granted a moratorium of payments, if its involuntary liquidation or bankruptcy has been requested or pronounced, or if the Buyer should have entered into any payments agreement with one or more of its creditors.

The Buyer shall be required to notify FCEU immediately if third parties can lay claim to rights in respect of goods which FCEU has supplied to the Buyer, as long as FCEU has any claim against the Buyer.

In that case FCEU shall be authorized to collect the relevant goods from the Buyer or to have this done, to repossess them and to store them elsewhere.

If FCEU should wish to collect the goods in conformity with the above, the Buyer shall grant it access to its office or business premises for that purpose.

The Buyer shall be liable for all the costs connected with the collection and storage of the goods. FCEU will not be obliged to make the goods available again until FCEU has been paid in full or has been given sufficient security in respect of its claim(s).

Notwithstanding the foregoing, all risk relating to the goods shall pass to the Buyer on receipt of the goods and the Buyer should arrange insurance accordingly.

DELIVERY PERIOD AND PARTIAL DELIVERIES

8. A delivery period shall be valid only if it has been recorded in an order confirmation issued by FCEU. The relevant delivery date shall then commence on the date of FCEU's order confirmation. The delivery period shall be a target date only, although FCEU shall do everything in its power to supply the goods within the agreed period.

FCEU shall be authorized to make partial deliveries. In that event, FCEU shall be authorized to issue separate invoices. In that case, the Buyer shall be obliged to make payment in conformity with that which is provided under "payment".

DELAY IN DELIVERY

9. FCEU shall not be responsible for any failure to perform or delay in performance due to unforeseen circumstances or to causes, beyond FCEU's reasonable control. Examples of such causes without limitation, are acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes or shortage of transportation facilities, fuel, energy, labour or materials. FCEU may defer delivery for a period equal to delay caused by such contingency.

For proven loss arising from delay in delivery as a result from causes within its control, FCEU's shall only be liable if such loss does not constitute consequential loss, such as loss resulting from business interruption and (or) loss of profits. FCEU's liability shall in any event never exceed the contract price of the goods in question.

Delays in delivery for any reason whatsoever, shall not entitle the Buyer to suspend the execution of any of its obligations in respect of FCEU and (or) to terminate the agreement.

DAMAGE, SHORTAGE OR NON-RECEIPT

10. As a condition precedent of any liability to which FCEU might otherwise be subject, the following requirements (where appropriate) must be met:

A. damage is reported on the carrier's way bill, failing that, the way bill is signed "contents unexamined" and the damage reported to the carrier and to FCEU (if FCEU is not the carrier) within 3 days;

B. claims for shortage are made within 10 days of delivery of the goods to the Buyer; and

C. non-receipt is notified to FCEU in writing within 14 days of invoice date.

FCEU shall investigate a complaint after receipt to establish whether or not it is founded.

To this end, the Buyer shall permit FCEU's representatives to investigate the relevant goods at the Buyer's offices or business premises.

FCEU shall decide whether the complaint is founded on the basis of that investigation and, if it decides that is the case, the Buyer shall return the goods and FCEU shall take receipt of them and replace them for its own account as soon as possible, or, if the Buyer should desire this, FCEU shall grant the Buyer a reasonable discount.

If the Buyer should contest FCEU's decision whether or not a complaint is founded, the parties shall have this decision made by an expert to be appointed by the parties by joint consent, whose decision shall be binding on the parties. Any costs incurred in respect of the expert shall be for account of the party who is judged to be in the wrong.

If complaints are not submitted within the prescribed period or are not properly reported, the goods supplied shall be considered to have complied with the agreement. The submission of a complaint shall under no circumstances discharge the Buyer of its payment obligations in respect of FCEU.

A return shipment must be made franco and shall be accepted by FCEU only if it has given its prior written permission (letter, telex, telefax, or telegram) therefor.

SPECIFICATION

11. FCEU follows a policy of continual development and improvement and therefore it reserves the right to alter the design or specification of any product without notice.

WARRANTY

12. FCEU warrants that the products to be delivered, if properly used and serviced, will conform to FCEU-published specification and will be free from defects in material and workmanship for twelve months from delivery.

Exclusions from this warranty:

The implied warranties of merchantability and fitness for a particular purpose and all other warranties, representations and conditions, express or implied by statute, trade usage or otherwise, except as set forth in this warranty, are excluded and shall not apply to the products delivered.

FCEU neither assumes nor authorizes any other person to assume any other liabilities in connection with the sale or use of any product.
Any use of the products should only be made after appropriate examination and (or) testing.

If any hardware product furnished by FCEU fails to conform to the above warranty, FCEU's sole and exclusive liability shall be, at FCEU's option, to repair, replace or credit the Buyer's account with an amount equal to the price paid for any such product returned by the Buyer during the warranty period, provided that:

A. the Buyer notifies FCEU in writing that such product failed to conform and furnishes a detailed explanation of any alleged deficiency;

B. such product is returned to the service centre at the Buyer's expense; and

C. FCEU is satisfied that the claimed deficiencies actually exist and were not caused by accident, misuse, neglect, alteration, improper installation, repair or improper testing.

If such product fails to conform, FCEU shall reimburse the Buyer for the transportation charges paid by the Buyer.

FCEU shall have a reasonable time to make repairs or to replace deficient products.

If FCEU fails to do so, the Buyer shall have the right to demand that FCEU refund the purchase price for such product and such right of the Buyer constitutes the Buyer's sole remedy for FCEU's failure to perform its repair or replacement obligation.

LIMITATION OF LIABILITY

13. A. To the extent permitted by law, no warranty, condition or other stipulation, express or implied, statutory or otherwise, shall apply to any contract with the Buyer unless and except to the extent expressly contained in these Terms and Conditions.

B. FCEU shall not be liable in any circumstances for any consequential loss whatever, however caused, including (but without limitation) business interruption and (or) loss of profits be it for the Buyer any third party. The Buyer should insure accordingly.

C. Any liability to which FCEU might become subject (other than in respect of death or personal injury resulting from the negligence of FCEU, its servants or agents), shall, where such liability arises out of repair or maintenance executed in whatever circumstances by or on behalf of FCEU, be limited to the cost replacing the goods the subject of such repair or maintenance.

D. Notwithstanding any other provisions of these Terms and Conditions, FCEU will indemnify the Buyer against direct damage to property occurring while FCEU is working on site to the extent that damage is caused by the negligence of FCEU, its servants or agents, provided that this indemnity shall extend only to the cost of making good such damage and provided that the total liability of FCEU for any one occurrence shall not exceed NLG 20,000,-, or (which ever is the lower) the sum which is payable to FCEU by the Buyer in pursuance of the relevant agreement.

INFRINGEMENT OF INDUSTRIAL PROPERTY RIGHTS

14. FCEU will indemnify the Buyer against any claim which may be made against the Buyer on the basis that the sale or use of the goods should infringe an industrial property right of a third party within The Netherlands provided however, that the obligation to indemnify shall only exist if:

A. The Buyer notifies FCEU promptly and in writing of any claim asserted against the Buyer in or out of court;

B. The defence against such claim is carried out in agreement with FCEU and, if FCEU desires (upon a corresponding request of FCEU) by a lawyer selected by FCEU;

C. A settlement, if any, is only entered into with the prior written consent of FCEU and if

D. The purchase does not prejudice the defence against such claim by his acts or omissions.

If the Buyer should be prevented by a final court decision by reason of an infringement of an industrial property right from selling or using the goods, FCEU shall refund the Buyer the purchase price of those goods which are subject to the injunction.

COPYRIGHT

15. Copyright in all products and documents (including drawings and handbooks) furnished to the Buyer shall at all times remain vested in FCEU, and neither they or their contents shall be used without the express written consent of FCEU for any purpose other than that for which they were furnished.

NON-WAIVER OF DEFAULT

16. FCEU's failure to insist upon strict performance of any of the provisions contained herein shall in no way constitute a waiver of its rights as set forth herein, at law or in equity, or a waiver by FCEU of any other provisions or prior, concurrent or subsequent default by the Buyer in the performance of or compliance with any of the Terms and Conditions set forth herein.

Should legal action become necessary to enforce any of the Terms and Conditions set forth herein, the losing party shall pay to the prevailing party all expenses incurred in connection with such action, including reasonable attorney's fees.

TERMINATION OF CONTRACTS

17. If the Buyer shall be in breach of or fail to fulfil any provision of this or any other contract with FCEU, or suffer distress or execution, or commit an act of bankruptcy, make an arrangement with creditors, or go into liquidation (except for amalgamation or reconstruction), or have a receiver appointed, FCEU may (without prejudice to any other claim or remedy) forthwith suspend performance of, or terminate, this contract by written notice and shall be entitled to payment for goods already delivered and work in progress.

NOTICES

18. Any notice to be given by either party to the other hereunder may (without prejudice to the use of any other method) be given by being sent by pre-paid first class letter addressed to the other party at its registered office (if any), or other last known relevant place of business, and any notice so sent shall be deemed to have been properly and effectively given upon the expiration of 48 hours after it shall have been posted.

FORCE MAJEURE

19. In the event of force majeure, FCEU shall be authorized, at its discretion, to cancel the purchase agreement entered into or to suspend the delivery until the point at which the force majeure has ceased to exist, in which event the Buyer shall not be able to claim any compensation from FCEU.

FCEU shall at any rate be considered to be subject to force majeure if, after entering into the agreement, it is prevented from complying with its obligations under the terms of any agreement in full and (or) in time or is prevented from making preparations therefor as a result of war, war damage, civil war, riots, the risk of war, fire, water damage, flooding, works strikes, sit-in strikes, lockouts, import or export restrictions, government measures, defective machinery, breakdowns in the energy supply, overdue delivery of the goods purchased, the raw materials and (or) resources required therefor, both within FCEU's business as well as within the business of third parties from whom FCEU must obtain the goods and (or) the necessary materials and (or) raw materials in whole or in part, and in the case of storage or during transportation, wether or not for its own account, and furthermore as a result of any other causes which are beyond FCEU's risk and responsibility.

INVALIDITY OF PROVISIONS

20. The invalidity of one or several provisions shall not affect the validity of any remaining provisions. The parties shall be obliged to substitute the invalid provisions retroactively by a valid provision, which from an economic point of view comes as close as possible to the purpose intended by the invalid provision.

DISPUTES, APPLICABLE LAW AND COMPETENT COURT

21. The agreement with the Buyer shall be governed exclusively by the law of The Netherlands. The applicability of the Uniform Law on Sale of Goods (UN-Convention on Contracts for the International Sale of Goods of April 1, 1980) is expressly excluded.

Any disputes shall be adjudicated exclusively by the competent court in The Netherlands, even if the Buyer is resident outside The Netherlands and if the provisions of any treaty or convention should stipulate the competence of a court outside The Netherlands. If the dispute should be within the absolute competence of a District Court, the District Court of Amsterdam shall be considered to be the competent Court.

FCEU however reserves the right to have a dispute with an opposite party domiciled or resident outside The Netherlands adjudicated by a competent court outside The Netherlands.