

CUSTOMER CONTRACT REQUIREMENTS
CH-47F
CUSTOMER CONTRACT E/L2CK/HA056/FF089

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below.

1. Prime Contract Special Provisions The following prime contract special provisions apply to this purchase order

Special Provisions .

1.1 Contractual penalties for promising or granting advantages

1.1.1 Sellers or their representatives must not offer, promise or grant advantages under § 331 of the German Penal Code, direct or indirect, to persons entrusted with research, development or acquisition tasks at the procurement office.

The above obligation shall also apply to all future business relations including those cases where contractors act as subcontractors while fulfilling contracts awarded by the Bundeswehr.

1.1.2 If the Seller violates the obligation in para 1.2.1 they shall be liable to pay the Buyer's customer a contractual penalty of 10% of the contract rate agreed (after the time of violation).

With further contracts or subcontracts awarded after a violation, the contractual penalty to be computed shall take into account any contracts and subcontracts awarded within a period of five years.

The amount of the contractual penalty shall not take into consideration those contracts in which the contractor can prove that his violation of the provisions outlined in para 1.1.1 did not, by common knowledge, have any direct or indirect effect on the contract(s). For this purpose the procurement office, through the Buyer, shall, if requested, furnish the contractor with any documents and information in his remit that may be tendered in evidence.

Moreover, the contractual penalty shall not take into account contracts awarded after the violation was revealed.

1.2 Contractual penalties for providing outside occupation without clearance

1.2.1 The provision of part-time occupation which, in terms of labor or service legislation, amounts to an occupation pursued in addition to another or while in retirement, may constitute an inadmissible advantage under the provisions of para 1.1.1. Prior to hiring a member of the Bundeswehr for any type of employment, including that of an expert or consultant and pursued as part-time occupation or while in retirement, the contractor shall insist on him submitting a clearance by the procurement office (the Federal Ministry of Defense). The contractor shall also be obliged to employ a retired Bundeswehr civil servant or a retired career soldier with fewer than five years of retirement only if the latter have submitted a clearance by the procurement office (the Federal Ministry of Defense) for this purpose. Civil servants of the Bundeswehr who have retired at the age of sixty-five are subject to a time limit of three years. If the clearance for a specific part-time occupation was given subject to conditions, they are for the contractor to comply with.

1.2.2 Any violation of the provisions of para 1.2.1 by the Seller shall make him liable to pay to the Buyer's customer a contractual penalty amounting to ten times the remuneration paid since the date of violation. The amount of penalty shall be computed in conformity with the provisions of § 4 of the Federal Regulation on Part-time occupations as amended, and be based on the gross amount. For any other purpose the provisions of para 1.1 will apply mutatis mutandis.

If requested by the Buyer, the Seller shall supply whatever information is required to compute the amount of the penalty.

1.3 Agreeing on contractual penalty regulations with subcontractors

When placing subcontracts the Seller shall agree with the subcontractor to observe the provisions of paras 1.1 and 1.2 subject to the proviso that when subcontracts are awarded the Buyer's customer shall be the covenantee of the promise to pay contractual penalties.

2 Rights of Use to the Results of the Work and Designation

2.1 The Buyer's customer acquires a non-exclusive, free-of-charge, irrevocable and non-sublicensable right to the worldwide use of the final report for defense purposes that are connected to the procurement of the CH-47 (with the exception of design, development and manufacturing) and subject to legislation to the contrary or other statutory provisions also for other government purposes that are connected to the procurement of the CH-47 (with the exception of design, development and manufacturing), except for reproduction, all rights to the technical information to be delivered and property rights, e.g., (national and international) patents or registered trademarks, as well as computer software and other work generated and provided in the performance of the Contract, as soon as it comes into being.

2.2 At the same time, the Seller assures that no third party copyrights are known to it on the contractual transfer of such work.

2.3 The aids adapted for the work or newly developed aids (e.g., methods, techniques, tools or software modules) used by Seller to perform the Contract are to be disclosed to the Buyer's customer, through the Buyer, on request at the end of the Contract and in accordance with a corresponding contractual price amendment to cover such works. They shall be listed with information about the origin, purpose and, as far as is known, the value.

2.4 In accordance with para. 2.1, the Buyer's customer is particularly entitled to reproduce, to edit, in particular to amend, to revise, to redesign, to translate and to use the reports to be written and submitted in accordance with this Contract ("reports"). On request, the Seller is to provide the Buyer's customer, through the Buyer, with a print copy free-of-charge.

2.5 The Buyer's customer is entitled to also exercise its rights through third parties that act in its name. This right is hereby already issued in regard to transferring the interim reports and the final report to IABG. The Buyer's customer names third parties that it entrusts with the exercise of its right of use. In this respect, it duly considers corresponding expertise of manufacturing technology, existing business relationships and suggestions in this regard made by the Seller. The Seller is to be informed of the decision of the Buyer's customer and must have the option to negotiate a confidentiality agreement directly with the third party in order to protect the Seller's or subcontractor's information that is subject to legal protection.