

GENERAL TERMS AND CONDITIONS

SCOPE

1. The present General Terms and Conditions ('GTA') shall apply to the entirety of the business relationship between the Customer and FT-TEC GmbH, particularly with regard to existing as well as future delivery agreements and contracts yet to be concluded. Any diverging terms and conditions a Partner may have which are not expressly recognised by us shall have no validity whatsoever.

OFFERS AND CONCLUSION OF AGREEMENTS

2. Our offers will remain valid for a maximum period of 30 days from their date of issue. Offers / deliveries shall only become valid after having been confirmed by us in writing. This condition shall also apply, mutatis mutandis, to any amendments, alterations and ancillary agreements.
3. Except when expressly identified as binding in the relevant order confirmation, the information, drawings, illustrations and specifications contained in catalogues, price lists or documents forming part of an offer represent approximate industry standard values.

PRICES

4. Except when stated otherwise, we consider ourselves bound, and shall comply with, the prices quoted in our offers for a period of 30 days from their date of issue.
5. In each case, the prices quoted in our order confirmation plus statutory value added tax shall apply. Any deliveries or services exceeding the scope of the relevant order confirmation shall be invoiced separately.
6. Except when agreed otherwise, prices shall be delivery free domicile (net), carriage, postage and insurance paid, including packing according to industry standards unless stated otherwise.
7. In the event of significant changes in labour, material, or energy costs, each Party shall be entitled to demand appropriate price adjustments in consideration of the aforementioned factors.

DELIVERIES

8. All agreements regarding delivery times shall be considered approximations only. For this purpose, additional agreements between the Parties concerning compensation on the grounds of non-performance due to our fault shall be required. In every other respect, all delivery dates or deadlines agreed upon as binding or non-binding shall be in writing.
9. Even after having agreed to binding delivery dates and deadlines, we can not be held responsible for any delayed delivery or performance due to force majeure and resulting from events significantly impeding deliveries, or rendering deliveries impossible (including, in particular, labour disputes, civil unrest, regulatory action, missing shipments by sub-contractors, etc.). Such events shall give us the right to postpone deliveries and/or services by the period the aforementioned impediments prevails, with added time for preparations and start-up, or to withdraw from the relevant contract, by virtue of the unfulfilled portion of the contract, entirely or in part without such a withdrawal entitling the Partner to any claim for compensation or damages.
10. Shipments and calculations will be performed at the prices and conditions valid on the day of delivery. All commercial terms and conditions shall be subject to the latest version of Incoterms.
11. The Parties shall notify each other regarding the beginning and the end of the duration of the aforementioned impediments without delay.
12. Partial shipments as well as partial performance shall be permitted to the extent they are customary in the trade and shall be invoiced separately. By way of exception, they shall not be permitted if the Partner is not interested in partial contractual fulfilment.
13. Any subsequent contractual changes carried out by the Partner which affect the delivery deadline may extend the time of delivery by an appropriate period.
14. Should a shipment be delayed due to circumstances described in article 9 or due to actions or omissions of the Partner, an appropriate extension of the delivery deadline commensurate to the relevant circumstances shall be granted. This provision shall apply irrespective of whether the cause for the delay in question arose prior or after the delivery deadline was agreed upon.

RETENTION OF TITLE

15. We retain ownership of all delivered goods pending fulfilment of all our claims arising from the business relationship with the Partner.
16. The Partner shall have the right to dispose of such goods in the ordinary course of business as long as he duly meets all of his responsibilities arising from his business relationship with our company. However, he may neither assign nor pledge goods subject to retention of title to others as security. The Partner shall be obliged to safeguard our rights when re-selling goods subject to retention of title to others on credit.
17. Should the Partner fall into arrears with his payments, we shall have the right to demand, at the Partner's expense, the return of the goods subject to retention of title without withdrawing from the respective contract and without setting a grace period.
18. The Partner even now assigns to us as collateral all claims and rights arising from the sale of goods we retain title to. We hereby accept this assignment.
19. In case of attachment orders enforced by a third party in connection with goods subject to retention of title, or claims assigned to us, or any other type of security or collateral, the Partner agrees to notify us immediately and to submit all documents required for any such intervention to us without delay. This provision shall also apply to any other impairment of ownership.
20. At the Partner's request, we will release any security or collateral due to us in accordance with the foregoing Article, provided that the realisable value of the delivered goods subject to retention of title exceeds the claims to be collateralised by no less than 20%.

WARRANTY

21. We hereby warrant that the goods delivered by us have been manufactured free from defects.
22. Our warranty shall neither cover defects resulting from improper or inappropriate use, improper storage, faulty installation and/or commissioning by the Partner or third parties, ordinary wear and tear, incorrect or negligent handling, nor any consequences of improper alterations, repairs or maintenance performed by the Partner or third parties without our consent.

23. Unless agreed otherwise, the warranty period shall conform to statutory provisions and shall commence at the time the goods are received by the Partner.
24. The Partner agrees give notice of any apparent defects upon receipt of the goods in question at their designated destination without delay. In case of hidden defects, the Partner agrees to notify us in writing immediately upon discovery of these defects, in any event, however, no later than 6 months following such discovery.
25. Upon timely notice, we shall, at our option, either remedy justified defects in rejected goods or deliver proper replacements.
26. Should we fail to comply with the warranty obligations described above, or fail to comply with these obligations as contractually agreed within a reasonable period of time, the Partner shall be entitled to stipulate a final deadline for us to fulfil the aforementioned obligations. Upon expiry of this deadline, the Partner shall have the right to demand a reduction in price, withdraw from the contract, or take any remedial action necessary by himself, or arrange for such remedial action to be performed by others, at our own risk and expense. Upon successful remedy of such defects by the Partner or a third party, all and any claim the Partner may have in this respect shall be deemed satisfied following our reimbursement of all reasonable costs incurred by him.

TERMS OF PAYMENT

27. Unless agreed otherwise, all invoices shall become due within 30 days from their date of issue without deduction. For the payment of invoices within 14 days from their date of issue, we shall allow a 2% cash discount unless the Partner is in arrears with meeting his liabilities.
28. In the event of deliveries containing partially and indisputably defective goods, the Partner shall be nevertheless obliged to effect payment for that portion of the goods which is free from defects. In all other respects, the Partner shall only be entitled to set off legally established or undisputed counter-claims.
29. As a basic principle, all payments to be rendered by the Customer must be remitted, at his own risk and expense, to the bank account communicated by FT-TEC GmbH. The place of fulfilment for the Customer shall be Kirchschlag.
30. Should the Partner exceed the term allowed for payment, we shall have the right to charge interest on arrears at the standard bank loan rate, in any event, however, no less than 12% over the effective discount rate charged by the Austrian National Bank.
31. In case of delayed payment, we shall have the right to suspend fulfilment of our obligations upon written notice to the Partner pending receipt of payment.
32. Should the Partner avail himself of the services of a central settlement organisation, settlement of the invoice concerned shall only release him from his debt after the amount has been credited to our account.
33. Any deterioration of the financial circumstances and credit standing of the Partner jeopardising our payment claims shall entitle us to demand full and immediate settlement of any residual debt. In such an event, we have the right, at our own discretion, to require the partner to effect advance payments or to furnish security, each in appropriate amounts and within a reasonable period of time, and to suspend contractual performance until our demands have been met. Should the Partner refuse to satisfy these demands or exceed the stipulated deadline, we shall either have the right to withdraw from the contract in question or to claim damages for non-performance.

SHOP DISPLAYS

34. We shall retain full ownership of all shop displays and presentation aids placed at the Partner's disposal free of charge and shall be entitled to demand their return at any time. For the time of their utilisation by the Partner, the Partner shall bear all risks associated with the aforementioned shop displays and presentation aids. The Partner agrees to equip the shop displays and presentation aids with our goods only and to compensate us for any loss or damage attributable to his fault.

OTHER CLAIMS

35. Except where provided otherwise below, all and any other claims of the Partner exceeding those mentioned herein shall be excluded, especially with regard to claims for compensation on the grounds of delay, impossibility of performance, culpable violation of accessory contractual obligations, fault resulting from contract conclusion, and tort. For this reason, we do not assume liability for any damage not occurring on the delivered goods themselves. In particular, we do not assume liability for any loss of profit or other damage to the Partner's assets.
36. The limitations of liability described above do not apply to damage or loss caused by us with intent or by way of gross negligence, or by our violating material contractual obligations. In case of violations of material contractual obligations on our part, however, we shall only be liable for reasonably calculable damage or loss inherent in the contract in question.
37. Additionally, no limitation of liability shall apply in cases of liability in connection with personal or material damage to private property according to product liability legislation and resulting from defects in delivered goods. Furthermore, no limitation of liability shall apply in the absence of properties warranted by us if such warranty had been intended to protect the Partner from any damage not occurring on the delivered goods themselves.
38. To the extent that any type of liability is excluded or limited on our part, such exclusion or limitation shall also apply to our legal representatives and agents.

CONFIDENTIALITY

39. The Parties agree to treat all business, technical and engineering details which are not in the public domain and which have come to their knowledge in the course of their dealings as business secrets.
40. The Customer shall refrain from exploiting models or required specifications of a technical or engineering nature placed at his disposal by the Supplier, in particular drawings, mock-ups, templates, patterns, formulations, samples or similar, for his own profit or for purposes of competition without proper authorisation as well as from disclosing, surrendering, or making them available to any unauthorised third parties in any other way whatsoever. Any reproduction of these items shall only be permitted within the scope of operational requirements and is subject to copyright law.

TECHNICAL AND ENGINEERING CHANGES

41. FT-TEC expressly reserves the right to alter materials and measurements on drawings without explicitly informing the Customer. This condition stems from our constant efforts to improve the Product with regard to quality, durability as well as consistent tolerances for the benefit of the Customer.

APPLICABLE LAW, VENUE OF JURISDICTION, SEVERABILITY, AND ASSIGNABILITY OF CONTRACTUAL RIGHTS

42. The present Terms and Conditions as well as the entire legal relationship between the Parties shall be subject to the law of the Republic of Austria. The provisions of the United Nations Convention on Contracts for the International Sale of Goods adopted on April 11, 1980 (CISG, also referred to as 'the Vienna Convention') are not applicable.
43. For all legal disputes, the venue of jurisdiction shall be Wiener Neustadt/Austria, always provided that the Partner is a registered merchant, a corporate body under public law, or a special estate under public law. We also have the right to institute legal proceedings at the Partner's registered domicile.
44. Should any of these Terms and Conditions, or any provision contained in other agreements, be or become invalid, the remaining provisions shall nevertheless continue with full force and effect. In such a case, the Parties shall replace such an invalid provision by another one approximating the economic effect of the original provision as closely as possible.
45. Bilateral contractual rights may only be conferred by mutual agreement.