

# General Terms and Conditions of Sale, Delivery and Payment

## 1. Scope

- 1.1 All deliveries, services, and quotations ("Deliveries") by FRÄNKISCHE Industrial Pipes GmbH & Co. KG ("FIP") and all its affiliates pursuant to Sections 15 et seq. German Stock Corporation Act (*Aktiengesetz (AktG)*) in business-to-business transactions are exclusively subject to these General Terms and Conditions of Delivery. They are part of all contracts concluded between FIP and its contractual partners ("Customers") regarding the Deliveries offered by it. They also apply to all future Deliveries to the Customer, even if not agreed separately again. The latest version of these General Terms and Conditions of Delivery applies to existing business relationships. If the Customer's general terms and conditions differ, effected Deliveries will not constitute an acceptance of the Customer's general terms and conditions. In particular, FIP will only be bound to the Customer's general terms and conditions insofar as these are in compliance with the latest version of FIP's General Terms and Conditions of Delivery or if FIP has consented to the Customer's general terms and conditions in writing.
- 1.2 Individual agreements expressly deviating from these General Terms and Conditions of Delivery take precedence. Any additions or amendments to the agreement including these General Terms and Conditions of Delivery must be made in writing to become effective. To satisfy the requirement of the written form, transmission by telefax is sufficient; otherwise, transmission by telecommunication, especially by e-mail, is not sufficient.

## 2. Orders, Longer-Term Call Orders and Firm Orders

- 2.1 The legal relationship between FIP and the Customer is solely governed by the written purchase contract, including these General Terms and Conditions of Delivery. It reproduces all understandings concerning the subject matter of the contract between the contracting parties. Oral confirmations by FIP before conclusion of this contract are legally non-binding and oral understandings between the contracting parties are replaced by the written contract unless they explicitly state that they continue to be effective and binding.
- 2.2 With regard to longer-term call orders and firm orders, FIP is entitled to procure the material for the entire order and manufacture the total order quantity right away. If the Customer cancels the order or reduces order quantities, FIP will be entitled to supply and charge the order quantity that was scheduled for delivery within four weeks after the order date. The Customer must refund the costs for the primary material destined for the manufacture of products to be delivered within eight

weeks that FIP cannot use otherwise. Technical and design deviations from descriptions and information in brochures, catalogs, written documents, and data media as well as model, design, and material changes in the course of technical progress or in the case of changes in the market situation remain reserved without allowing the Customer to derive therefrom any rights against FIP insofar as these products are standard or catalog items of FIP. In particular, FIP is entitled to make reasonable and appropriate changes to products and production processes required for an adaptation to technical conditions that have changed after contract conclusion. Customary quality tolerances do not constitute a deviation from the contractually agreed performance.

- 2.3 The Customer will be charged for other additional costs incurred by FIP due to subsequent changes to the order by the Customer.

## 3. Contract conclusion

- 3.1 The quotations of FIP are subject to confirmation and without obligation. The order on the part of the Customer is considered a binding offer of contract.
- 3.2 Acceptance by FIP takes place in a written order confirmation or by invoice delivery on the part of FIP.

## 4. Prices, Cost Increases, Payments

- 4.1 All prices are ex works and apply to the scope of supply and services stated in the respective quotations and/or order confirmations. Additional or special services will be charged separately. Prices are in EURO including the packaging described in the next sentence, plus special packaging described below, plus statutory VAT, for export deliveries plus customs, fees, and other public charges. Packaging includes cardboard packaging, labeling, and foil winding, if required. Further costs (pallets, special packaging) are not included in the price and will be charged separately.
- 4.2 FIP is entitled to pass on to the Customer not just insignificant cost increases (> 5 %) due to the increase in, for example, energy, labor, or procurement costs, especially due to changed exchange rates for raw materials outside of the Euro-zone. Price changes by FIP, also for ongoing orders and calls by the Customer, are to be announced and adjusted four months in advance of the first day of the following month. At the Customer's request, FIP will set out the cost increase as regards content. In the case of a price increase of more than 5 %, the Customer has a right of termination for ongoing contracts with regard to the items stated in this paragraph; the termination must be given notice of within four weeks after announcement of the price increase by FIP. If the Customer is under an obligation to take

delivery of items kept in FIP's stock, this obligation will remain unchanged in the event of the Customer's termination. Any quantities already stocked at FIP will be delivered and charged at the contractually agreed prices, taking into account any cost increase.

- 4.3 FIP's quotations and prices are based on the quantities inquired by the Customer (annual quantities and total demand volumes). If the advised annual sales volume is fallen below considerably by more than 20 %, FIP will have the right – due to the changed basis of the contract – to terminate the period of validity of the offer and price maintenance giving three months' notice to the end of the month. The contracting parties shall then agree on new prices by way of negotiations within the residual term of price maintenance.
- 4.4 Payments are due within 30 days from invoicing without any deduction. The receipt of the amount on FIP's account is crucial for timely payment.
- 4.5 If the Customer does not pay in time according to Section 4.4, default interest of 9 % above the respective base interest rate per year will be charged in addition from the 31st day. Furthermore, FIP reserves the right to claim a lump-sum compensation in the amount of EUR 40.00. FIP also reserves the right to claim further damage caused by delay, which is to be offset against the lump-sum compensation.
- 4.6 FIP is entitled to effect yet outstanding Deliveries against advance payment or provision of a security only if, after conclusion of the contract, it becomes aware of circumstances suited to considerably reduce the Customer's creditworthiness and which seem to jeopardize the Customer's payment of FIP's accounts receivable from the respective contractual relationship (including other individual orders for which the same framework contract applies).

## 5. Delivery, Minimum Order Quantity, Default of Acceptance, Consignment Stock, Passing of Risk

- 5.1 Deliveries are effected ex works (Incoterms 2020: ex works)
- 5.2 Decisive for the delivery date is just the order confirmation by FIP. Delivery dates by the Customer will only be binding if FIP has expressly confirmed them as binding in writing.
- 5.3 Adherence to agreed delivery dates depends on all documents, necessary permits and approvals to be provided by the Customer being supplied in time and on the Customer's compliance with any other obligations. If these requirements are not met in time, the delivery periods will be extended appropriately; this does not apply if FIP is responsible for the delay.
- 5.4 FIP is not liable for impossibility of delivery or delay in delivery insofar as this was caused by force majeure or other events unforeseeable at the time of contract conclusion (for example, interruptions of operations of any kind, difficulties in procuring material or energy, transportation delays, strikes, lawful lockouts, shortage of labor, energy, or raw material, difficulties in procuring necessary official permits, regulatory actions, or non-, incorrect, or not timely delivery by a supplier) for which FIP is not responsible. If such events make delivery considerably more difficult or impossible for FIP and

the obstruction is not just temporary, FIP will have the right to withdraw from the contract. In the case of temporary obstructions, the delivery dates will be extended by the period of obstruction plus an appropriate lead time. If acceptance of the Delivery cannot be expected from the Customer because of the delay, the Customer may withdraw from the contract by immediate written declaration to FIP.

- 5.5 If FIP is in default with a Delivery or if Delivery becomes impossible for FIP for whatever reason, FIP's liability will be limited to damages in accordance with Section 7 of these General Terms and Conditions of Delivery.
- 5.6 Partial deliveries are admissible insofar as they are reasonable for the Customer.
- 5.7 The minimum order value for each ordered item is EUR 200.00 net. FIP is entitled to not execute orders by the Customer falling below this minimum order value or to deliver goods of not less than this minimum order value. If FIP's Delivery falls below this minimum order value at the Customer's express written request, FIP will be entitled to charge at least EUR 200.00 net.
- 5.8 The Customer may not refuse acceptance of Deliveries due to insignificant defects. FIP is not obliged to take back faultless goods.
- 5.9 In the case of default of acceptance or any other culpable breach of duties to cooperate on the part of the Customer, FIP will be entitled to compensation for the resulting damage, including any additional expenditures. Any further claims remain reserved.
- 5.10 If the Customer's default of acceptance leads to a default of delivery, the Customer must reimburse FIP for the storage costs for the duration of the delay. FIP's storage costs are 0.25 % of the invoice amount of the delivery items to be stored per full week. However, FIP is also entitled instead to store the delivery items at a forwarding agent's and charge the Customer for the actual expenditures incurred. The right to claim and prove additional or lower costs remains reserved.
- 5.11 If FIP delivers goods to consignment stocks at the Customer's, these will be regarded as removed in the case of product elimination (the product is eliminated as demand at the Customer's), upon contract termination, or in the event of storage for more than six months, and will have to be paid for. In the case of non-acceptance, FIP will be entitled to scrap the goods at the Customer's expense and charge the Customer for them.

## 6. Warranty, Material Defect

- 6.1 The warranty period is one year or five years in cases in which the delivery item was used for a structure in accordance with its usual manner of use and caused its defectiveness, in each case as of delivery or, if acceptance is required, as of acceptance.
- 6.2 The delivered items are to be inspected promptly and carefully after delivery to the Customer or to the assigned third party. They will be regarded as approved if FIP does not receive a written notice of defects with regard to obvious defects or other defects detectable in a prompt and careful inspection within seven workdays after delivery of the delivery item or otherwise within seven workdays after discovery of the defect or any earlier point in time at which the defect was detectable for

- the Customer in the ordinary use of the delivery item without a thorough examination.
- 6.3 In the case of material defects of the delivered goods, FIP is first obliged and entitled – at its own choice and within a reasonable period – to rectification or supplementary delivery. In the case of failed rectification – that is, after the second unsuccessful attempt to rectify –, impossibility, unreasonableness, refusal, or undue delay of the rectification or supplementary delivery, the Customer has the right to withdraw from the contract or reduce the purchase price appropriately.
  - 6.4 If a defect is FIP's fault, the Customer may claim damages under the conditions stated in Section 7.
  - 6.5 Claims by the Customer due to the expenditures necessary for the subsequent performance, in particular costs for transport, travel, labor, and material, are excluded insofar as the expenditures increase because the delivery item was subsequently transported to a location other than the Customer's premises, unless the transport is in compliance with the proper use of the item.
  - 6.6 FIP is entitled to condition the owed subsequent performance on the Customer effecting the due payments. The Customer may withhold payment to an extent that reasonably reflects the defect. Without prejudice to any further claims by FIP, in the case of an unjustified notice of defects, the Customer is obliged to reimburse FIP for the expenditures for examination and – if requested – rectification.
  - 6.7 Claims based on defects are excluded in the case of a merely insignificant deviation from the agreed quality, an only insignificant impairment of the usability, wear and tear, or any damage occurring after the passing of risk as a result of improper or careless handling, excessive use, unsuitable equipment, or particular external circumstances not anticipated in the contract.
  - 6.8 If the defect of the item is attributable to the quality of the material or components used and the Customer prescribed the use of this material or the components used, FIP will be entitled to assign to the Customer claims against the respective supplier. In this case, FIP will be exempt from its direct liability and will be liable like a guarantor if claims against the supplier do not exist or are not legally enforceable due to FIP's fault.
  - 6.9 Warranty will not be applicable if the Customer changes the delivery item or has it changed by third parties without FIP's consent and rectification of the defect thus becomes impossible or unreasonably difficult. In any case, the Customer must bear the additional costs incurred for rectification of the defect caused by this change.
  - 6.10 The execution of work performed within the framework of the assertion of warranty rights of the Customer does not imply any acknowledgement of the liability on the part of FIP.
  - 6.11 If the Parties have a dispute regarding the existence and/or inexistence of a material defect, an expert arbitrator will decide the controversial subject. The initiation of legal proceedings about the dispute and associated legal claims is only possible after the arbitration opinion is available. The parties shall reach an agreement on the person of the expert arbitrator within two weeks after the written request by one party. If no agreement can be reached within this period, the expert arbitrator will be appointed by the competent Chamber of Commerce and Industry following the written request of one party. The

expert arbitrator must be a publicly appointed expert for the relevant area who is independent and impartial.

The arbitration opinion is prepared in writing and is binding for the parties. A court control shall only take place within the framework of Section 319 German Civil Code (BGB). Each Party has the right to provide the expert arbitrator with a written summary of their view of the dispute for the preparation of the expert opinion within four weeks after the written placement of the order. The expert arbitrator shall hold at least one hearing for the oral discussion of the dispute in which the Parties and their advisors can participate. The costs and expenditures of the expert arbitrator shall be equally borne by both Parties. Own costs arising within the context of the arbitration opinion, e.g., for lawyers, shall be borne by each party themselves.

## 7. Liability for Damages in Case of Fault

- 7.1 FIP's liability for damages for whatever legal reason, in particular for impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations, and the act of tort, is limited in accordance with this Section 7 insofar as these are each subject to a fault.
- 7.2 In the case of property damage and financial damage caused by negligence, FIP and its vicarious agents are only liable for breach of a fundamental contractual obligation, however, the amount being limited to the damage foreseeable at the time of contract conclusion and typical of this type of contract; fundamental contractual obligations are such the fulfillment of which forms the contract and in which the Customer may trust.
- 7.3 Insofar as FIP provides technical information or acts as a consultant and this information or advice is not part of the contractually agreed scope of performance owed by it, this is done free of charge and with the exclusion of any liability.
- 7.4 The limitation of FIP's liability in these General Terms and Conditions of Delivery does not apply to willful misconduct or gross negligence, guaranteed characteristics, injury to life, body, or health, or liability in accordance with the German Product Liability Act (*Produkthaftungsgesetz*).

## 8. Tools

- 8.1 Any tools and equipment manufactured for the Delivery, even individual ones, remain the property of FIP, even if the Customer reimburses the production of the tools and equipment completely or proportionately. In this case, the Customer is obliged to share the costs for service, maintenance, and insurance of the tools and equipment at an appropriate rate. If tools and equipment pass into the Customer's or a third party's ownership in accordance with a separate agreement, the tool and/or equipment will nevertheless remain with FIP. FIP has a respective right of ownership unlimited in time. The Customer bears the risk of accidental perishing or accidental deterioration and all costs and measures for maintaining the tool and/or equipment.
- 8.2 FIP's obligation to maintain suitable for production the Customer's tools or equipment or tools and equipment paid by the Customer only applies until discontinuation of the serial delivery. In the case of

spare parts requirements at the Customer's thereafter, any necessary maintenance of tools and equipment will be effected at the Customer's cost.

## 9. Title, Retention of Title

- 9.1 The title of the delivery item remains with FIP until all claims arising from the business relationship due to FIP against the Customer have been satisfied.
- 9.2 The Customer is allowed to process or transform the delivery item ("Processing"). Processing is effected for FIP; however, if the value of FIP's delivery item is lower than the value of the goods not belonging to FIP and/or the Processing, FIP will gain co-ownership of the new items in proportion of the value (gross invoice value) of the processed delivery item to the value of the remaining processed items and/or the Processing at the time of Processing. If, in accordance with the aforesaid provision, FIP does not gain co-ownership of the new items, FIP and the Customer agree that the Customer will grant FIP co-ownership of the new items in proportion of the value (gross invoice value) of FIP's delivery item to the remaining processed items at the time of Processing. The foregoing sentence applies accordingly in the case of inseparable mixing or connection of the delivery item with items not belonging to FIP. If, in accordance with this Section 9 (Retention of Title), FIP gains ownership or co-ownership, the Customer will store the items with the diligence of a prudent businessman.
- 9.3 If the delivery item or the new items is/are sold, the Customer herewith assigns to FIP by way of security, without any special notice being required, any claims it might have against its subpurchasers from the resale, including all ancillary rights pertaining thereto. This assignment includes possible outstanding balance claims. However, such an assignment is only valid in the amount that equals the price invoiced by FIP for the delivery item. The proportion of the claim assigned to FIP must be given priority.
- 9.4 If the Customer attaches the delivery item or the new items to real property, it assigns to FIP, without any special notice being required, also any claim it might be entitled to for the connection proceeds, in the amount that equals the price invoiced by FIP for the delivery item.
- 9.5 Until any notice of revocation, the Customer may collect the outstanding balance claims assigned to FIP in accordance with this Section 9 (Retention of Title). The Customer will immediately transfer any payments made for assigned outstanding balance claims to FIP up to the amount of the secured claims. If there is a legitimate interest, in particular in the case of default in payment, non-payment, institution of insolvency proceedings, bill protest, or reasonable grounds to suspect over-indebtedness or imminent insolvency of the Customer, FIP may revoke the Customer's right to collect outstanding balances. Furthermore, FIP may, after having set a reasonable deadline and threatened to do so, disclose such information regarding assignments by way of security, exploit assigned outstanding balance claims, and require the Customer to disclose any assignments by way of security to its subpurchasers.
- 9.6 If FIP can substantiate a legitimate interest, the Customer must provide to FIP such information and

submit such documents as are required to assert FIP's rights against the subpurchasers.

- 9.7 As long as FIP retains title to the delivery item, the Customer may not pledge or assign the delivery item as security. The Customer must promptly notify FIP of any attachments, seizures, or other dispositions or interventions by third parties. Resale of the delivery item or the new items is only allowed for resellers within the ordinary course of business and only on condition that payment of the equivalent value of the delivery item is effected to the Customer. Moreover, the Customer must agree with the subpurchaser that title of the delivery item will only pass upon this payment.
- 9.8 If the realizable value of all security interests held by FIP exceeds the amount of all secured claims by more than 10 %, FIP will release a corresponding portion of the security interests at the Customer's request. It will be assumed that the conditions mentioned in the previous sentence are met if the estimated value of the interests due to FIP amounts to or exceeds 150 % of the value of the secured claims. FIP may, at its option, decide which security interests to release.
- 9.9 If the Customer breaches any of its obligations, in particular in the case of default in payment, FIP will be entitled even without having set a time limit to demand surrender of the delivery item or of the new items and/or – after having set a time limit, if necessary – to withdraw from the contract; the Customer will be obligated to surrender the items. Demanding surrender of the delivery item/new items does not signify FIP's notice of withdrawal from the contract unless this is expressly declared.

## 10. Industrial Property Rights

- 10.1 FIP reserves the property right in and copyright to all submitted quotes and cost estimates as well as drawings, images, calculations, brochures, catalogs, models, tools, and other documents and aids provided to the Customer. Without FIP's express consent, the Customer must not make these items – neither as such nor as regards content – accessible to third parties, disclose them, use them themselves or through third parties, or reproduce them. At FIP's request, the Customer must completely return these items to FIP and destroy any produced copies when they are no longer required in the normal course of business or if negotiations do not lead to the conclusion of a contract.
- 10.2 Claims of the Customer are excluded insofar as the Customer is responsible for the infringement of an industrial property right. Claims of the Customer are also excluded insofar as the infringement of an industrial property right is caused by particular Customer specifications or by an application that was not foreseeable for FIP, or because the Customer modified the Delivery or used it in combination with products not supplied by FIP.
- 10.3 The Customer guarantees that provided goods and services as well as documents provided by the Customer are free of any third-party industrial property rights. The Customer is obliged to indemnify FIP from any claims raised by third parties against FIP due to the aforementioned infringement of industrial property rights and must reimburse FIP for all necessary expenditures in conjunction with such third-party claims. This claim exists regardless

- of any fault on the part of the Customer. In respect of the delivery item, FIP ensures the freedom of property rights and copyrights of third parties in the respective destination country if the delivery item is used there for the designated use. Every contracting party will immediately inform the other contracting party in writing if claims are enforced against it due to an infringement of such rights.
- 10.4 In case the delivery item infringes an industrial property right or copyright of a third party, FIP will, at its own option and at its own expense, modify or exchange the delivery item such that it no longer infringes any third-party rights, but the delivery item still fulfills the contractually agreed functions, or obtain for the Customer the right of use by concluding a license agreement. If FIP does not manage to do so within a reasonable period, the Customer will be entitled to withdraw from the contract or reduce the purchase price appropriately. Any claims for damages of the Customer are subject to the limitations in Section 7 of these General Terms and Conditions of Delivery.
- 10.5 In case products of other manufacturers delivered by FIP infringe rights, FIP will, at its own option, assert its claims against the manufacturers and presuppliers for account of the Customer or assign them to the Customer. In accordance with this Section 10, claims against FIP only exist in these cases if the legal enforcement of the aforesaid claims against the manufacturers and presuppliers was unsuccessful or has no prospect of success, for example, because of insolvency.
- Customer at its place of general jurisdiction or at any place of performance.
- 13.3 The law of the Federal Republic of Germany including the UN Convention on Contracts for the International Sale of Goods apply. Germany. If the Customer is not domiciled within the Federal Republic of Germany, FIP can also assert the law that applies at the Customer's domicile or the law of the place of performance.
- 13.4 These General Terms and Conditions of Delivery remain binding in general even if individual provisions are null and void.

## 11. Spare Parts

- 11.1 After discontinuation of the serial delivery, FIP will not be subject to any price maintenance for the delivery of spare parts. The provisions in Sections 4.2 and 4.3 of these General Terms and Conditions of Delivery also apply to spare parts.
- 11.2 If the Customer orders a quantity of spare parts the manufacture of which is economically unreasonable, FIP may reject the spare parts order and offer the Customer the delivery of a quantity of spare parts that can be manufactured economically reasonably; FIP will not be obliged to deliver the quantity of spare parts the manufacture of which is economically unreasonable according to the Customer's original order. The quantity of spare parts that can be manufactured economically reasonably is not bound to any minimum order value.
- 11.3 After discontinuation of the serial production, FIP will not be obliged to provide the associated tools.

## 12. Assignment, Set-off, Retention

- 12.1 FIP may assign claims.
- 12.2 The Customer may only offset claims against FIP or exercise a right of retention if such claims or rights are acknowledged, legally established, or ready for decision.

## 13. Final Provisions

- 13.1 The place of performance for all Deliveries is Königsberg, Germany.
- 13.2 The exclusive place of jurisdiction is Königsberg, Germany. FIP is entitled, however, to sue the