

General Terms and Conditions for Goods and Services of Walter Föckersperger GmbH

I. General provisions

1. The buyer ("Buyer") herewith acknowledges and accepts that these General Terms and Conditions for Goods and Services of the Seller apply for all orders for goods ("Goods") and/or services ("Services") placed with Walter Föckersperger GmbH ("Seller"). These terms and conditions apply to current and future business relations between Buyer and Seller. Any conditions of the Buyer are not binding on Seller, irrespective of whether or not Seller objects to Buyer's terms.

2. All agreements are to be recorded in writing. A valid purchase contract ("Contract") is only then formed when the Seller confirms in writing an order. This also applies to ancillary agreements, commitments and subsequent changes to a Contract. In case of inconsistencies or conflicts in the provisions between these General Terms and Conditions and terms in the Seller's order confirmation, precedence shall be given to the terms in the Seller's order confirmation.

3. Seller's offers are binding for a period of 3 months. The order confirmation alone determines the content of a Contract.

4. Seller reserves the right to change the design, shape and color of the Goods, provided the Goods are not changed significantly and the Buyer can be reasonably expected to accept such changes.

II. Prices

1. The price of the Goods is without any discounts or other rebates, plus value added tax (VAT), where applicable. Postage, transportation, shipment and packaging costs and possible expenses for transportation insurance are to be borne by the Buyer.

2. If manufacturing costs, including but not limited to salaries, wages, raw materials, supplier costs, power and energy, increase following order confirmation and prior to the delivery of the Goods, Seller is entitled to add the additional costs to the original purchase price. This shall not apply to price commitments for Goods or Services that are to be delivered or provided within 4 months from the conclusion of a Contract.

III. Terms of payment

1. Buyer shall pre-pay Seller at Seller's principal place of business, without deduction or offset, in advance of shipment and delivery of Goods or Services according to the following payment schedule: 1/3 is immediately due upon order placement, 1/3 is immediately due upon production completion mid-point noticed by Seller to Buyer, and the final 1/3 is immediately due prior to delivery time noticed by Seller to Buyer. All payments shall be made in Euros. All banking, transaction or wiring charges shall be borne by the Buyer.

2. If payment deadlines are exceeded, Seller is entitled to charge interest on arrears of 8% above the relevant applicable base interest rate, plus VAT. Seller reserves the right to claim additional damages due to default.

3. Payments received shall be applied towards the oldest due invoice, including in the event of any instructions of the Buyer to the contrary. Retention of payments or offsetting against possible counterclaims of the Buyer, which have been disputed by the Seller, is not permitted. If partial payment has been agreed, the whole of the remaining debt is immediately due and payable if the Buyer is late with payment to the Seller for more than 14 days.

IV. Terms of Delivery

1. All Goods shall be shipped EXW Pauluszell, Germany, Incoterms 2020.

2. Unless a fixed delivery date has been expressly agreed to, the parties will consult and coordinate with each other regarding a reasonable delivery date. Any delivery dates, fixed or approximate, will be reasonably adjusted to accommodate any changes to Goods or a Contract agreed to between the parties. Seller may suspend any outstanding deliveries in case of a continuing payment default by the Buyer.

3. Force Majeure. In case of Force Majeure (defined below) Seller is relieved from its duty to perform its obligations under the Contract and from any liability in damages or from any other contractual remedy for breach of contract. The above consequence will also apply in the following cases: (i) a delivery delay preceded the occurrence of Force Majeure, (ii) a third party supplier in Seller's supply chain is impeded due to Force Majeure. Where the effect of the impediment or event invoked is temporary, the above consequences shall apply only as long as the impediment invoked impedes Seller's performance. The Seller shall give notice of such impediment.

"Force Majeure" means the occurrence of an event or circumstance that prevents or impedes the Seller from performing one or more of its contractual obligations under the Contract, if such impediment is beyond Seller's reasonable control. In the absence of proof to the contrary, the following events affecting the Seller shall be presumed to be a Force Majeure event: (i) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation; (ii) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy; (iii) currency and trade restriction, embargo, sanction; (iv) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation; (v) plague, epidemic, pandemic, natural disaster or extreme natural event; (vi) explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy; (vii) general labour disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises.

4. Seller is not liable for delivery delays or delivery failures in case of delivery delays or delivery failures by third party suppliers in Seller's supply chain.

5. If delivery is late by more than 2 months beyond an agreed fixed delivery date, or if thereafter there is actually or anticipatorily a total failure to deliver, the Buyer may, as its sole remedy, cancel the Contract, provided it has given the Seller written notice of default threatening cancellation after the expiry of a cure period not less than 30 days.

V. Acceptance of Goods

1. The Buyer shall take receipt through acceptance of tender of delivery of the Goods at the agreed place of delivery within 8 days from receipt of the notice that the Seller has put and is holding the Goods at the Buyer's disposition. The Buyer is required to inspect the Goods, and notify the Seller of any detected non-conformity of the Goods within 10 days of receipt. Inspection may include a test drive within usual limits (not more than 5 kilometers), or beyond the usual limits provided that the Buyer pays for any extra costs and assumes the risk of loss or of deterioration of the Goods.

2. If the Buyer is late with acceptance of the tender of the delivery of Goods for more than 8 days from the date of the notice of readiness, the Seller is entitled, following setting a grace period of a further 14 days, to cancel the contract and/or to claim

damages due to non-performance. In the latter case, the Seller is entitled, without prejudice to Seller's right, to claim or retain higher losses, to demand 20% of the net delivery price plus VAT as indemnification, unless the Buyer proves that no damage or value impairment has occurred or that a damage or value impairment is significantly lower than the allowance.

3. If any activities are carried out by the Buyer or its representatives to the Goods prior to the acceptance, Buyer shall be liable for any resulting damage.

VI. Retention of title, Security Interest & Collateral

To secure any outstanding amounts owed by the Buyer to the Seller, (i) the Seller retains the title over all Goods delivered to the Buyer, until the amounts due have been paid in full, and/or (ii) to the extent retention of title is not recognized in the jurisdiction in which the Goods are located (*lex rei sitae*), then the Buyer grants the Seller a security interest, mortgage, pledge, purchase money interest, and/or equivalent interest or collateral in the Goods to serve as security for the payment of outstanding amounts due. This also applies if individual or all claims of the Seller have been included in a current invoice and the balance has been tallied and acknowledged. Any retention of title and/or security interest or similar shall be automatically released upon the payment of the outstanding amounts in full.

VII. Limited Warranty

1. The Seller warrants that the Goods shall be free of material defects in materials, workmanship and construction. All other warranties, express or implied, including but not limited to merchantability and fit for purpose, are excluded. For the avoidance of doubt, Information, drawings, figures, technical data, weight, dimensional and performance specifications indicated in brochures, circular letters, advertisements, catalogues, price lists or documents related to the offer are indicative only and are non-binding. In case of a breach of this warranty, the Buyer's exclusive remedy is limited to requiring the Seller to cure the non-conformity through either repair or replacement (at Seller's option), whereby the Seller has the right to three attempts to cure, provided, however, that in case of failure to cure after 3 attempts, the Buyer may as its sole remedy, upon written notice to the Seller, reasonably reduce the purchase price amount. No warranty is extended for used Goods and parts.

2. In order to secure any warranty rights, the Buyer has to notify in writing the Seller of apparent defects within 10 days of acceptance of tender of delivery, and of hidden defects immediately following their discovery.

3. Notwithstanding anything herein to the contrary, not each and every apparent defect may be uncovered and detected at acceptance of tender of delivery. Thus an indeterminate time period may lapse between the date of delivery and arrival of the Goods at the place of Buyer's intended interim or ultimate destination. Against this background, Seller grants Buyer the opportunity to perform a second inspection of the Goods within 5 days of arrival of the Goods at the place of Buyer's intended interim or ultimate destination. The Buyer shall be required to notify the Seller immediately of any apparent defects detected unrelated to damages occurring during or through transport after acceptance of tender of delivery. This right to a second inspection shall lapse in full 30 days after the acceptance of tender of delivery.



General Terms and Conditions for Goods and Services of Walter Föckersperger GmbH

4. The warranty claims period is limited to 12 months. This period commences on the date of acceptance of tender of delivery. Furthermore, this warranty is extended only to the Buyer and extinguishes upon the sale of the Goods by the Buyer to a third party. The warranty for any parts integrated in the context of repairs only covers the warranty period of the Goods.

5. This warranty does not apply to any Goods that, upon examination by Seller, are found to have been (i) mishandled, misused, abused, or damaged by Buyer or Buyer's customer, (ii) altered from their original state, (iii) repaired by a party other than Seller without Seller's prior written approval, (iv) improperly stored, installed, operated, or maintained in a manner inconsistent with Seller's instructions, operating instructions, maintenance instructions or similar stipulations. This warranty does not apply to (i) defects attributed to normal wear and tear, excessive use, climatic influences, accidents, force majeure or other circumstances beyond the control of Seller, or use of media with improper specifications or other unsuitable operating fluids, (ii) defects known to Buyer upon delivery, receipt and/or acceptance, (iii) defects discovered or that should have been discovered and for which Buyer failed to give notice of defect within a reasonable time, or (iv) minor or immaterial defects that do not materially impair use of the Goods. This warranty is further subject to Buyer's obligations to inspect and give notice of defect.

6. The defective Goods are to be sent for repair to Seller or the closest customer service unit authorized by Seller for the relevant product. The return is at the Buyer's cost. Concerning the expenditures which are necessary for repair, the Seller must only assume material and labor costs. Curing of defects at the place of installation will only be made in the context of special agreements pursuant to Seller's valid service conditions.

7. The warranty covers only the Good's parts that have been produced by the Seller. As regards any third-party parts that were not produced by the seller, the warranty extends to the assignment of any claims against the relevant sub-suppliers or manufacturer companies.

8. Any parts acknowledged as being defective and replaced become the property of the Seller.

9. THESE EXPRESS WARRANTIES, INCLUDING THE REMEDIES SET FORTH HEREIN, ARE EXCLUSIVE. ALL STATUTORY (IMPLIED) OR OTHER WARRANTIES REGARDING MERCHANTABILITY AND/OR FITNESS FOR A GENERAL OR PARTICULAR PURPOSE AND/OR RELATED LIABILITY OR REMEDIES ARE EXCLUDED.

VIII. Limitation of Liability

Notwithstanding any other provision herein, under no circumstances shall the Seller be liable for any consequential, special, incidental, indirect, multiple, administrative, or punitive damages, or any damage of an indirect or consequential nature arising out of or related to its performance under any Contract, including, without limitation, loss of use, loss of revenues, loss of anticipated profits, and cost of capital, whether based upon breach of Contract, warranty, negligence, or any other claim, and whether grounded in tort, contract, civil law, or other theories of liability, including strict liability, even if advised before the possibility of such damages. Seller's total liability to the Buyer arising from or related to any Contract, including, but not limited to, its liability for indemnity, defense, and hold harmless obligations, is limited to only the amount paid by Buyer to Seller under any Contract. If this limitation

of liability conflicts with any other Section or provision, such provision shall be deemed amended to whatever extent required to make such provision consistent with this clause. The forgoing limitations of liability do not apply in case of fraud, intentional misconduct and/or in case such limitations are deemed unenforceable under public policy and other mandatory norms.

IX. Indemnification

Each Party (the "Indemnifying Party") agrees to indemnify, defend, and hold harmless the other Party, its officers, directors, and employees (the "Indemnified Party") against all liabilities, losses, expenses, liens, claims, demands, and causes of action ("Claims") for death, personal injury, or property damage arising out of any negligent act or omission, or willful misconduct, of the Indemnifying Party in the performance of Buyer's Order, except to the extent such Claims are contributed to by the negligence or willful misconduct of the Indemnified Party or of any third parties. Buyer agrees to indemnify, defend, and hold harmless Seller, its officers, directors, and employees for all Claims, including Claims asserted by third parties, related to any Goods manufactured in whole or in part to Buyer's designs or attributed to equipment, information, or materials furnished by Buyer to Seller. The Indemnified Party agrees to (i) notify the Indemnifying Party in writing of any Claims when reasonably practicable, (ii) allow the Indemnifying Party to control the defense of any such Claim and related settlement negotiations, and (iii) reasonably cooperate with the Indemnifying Party in such defense.

X. Confidentiality

Due to the nature of the relationship between the parties, Buyer may receive information from the Seller, or be exposed to information, which information is proprietary and of a confidential nature to the Seller. The Seller may suffer irreparable harm and damages if such information was used in a manner not intended by the Seller or disclosed to third parties. The Buyer therefore agrees to keep all such information strictly confidential and to not use such information except as permitted under, or reasonably consistent with, any Contract.

XI. Intellectual Property

Buyer agrees that Seller retains all intellectual property and proprietary rights in and to all products, specifications, designs, discoveries, inventions, patents, copyrights, trademarks, trade secrets, and other proprietary rights relating to Goods and related documents. Seller shall have the unrestricted right to sell to other parties products identical or similar to the Goods.

XII. Data protection

Seller is entitled to use any data obtained and registered in the context of the business relationship in line with the provisions of the German Federal Data Protection Regulations.

XIII. Miscellaneous

1. If any provisions of these terms and conditions or any provisions in other agreements are or become invalid, the validity of the remaining provisions or agreements shall not be affected. The invalid provision is to be replaced by a valid provision that comes closest to the commercial purpose of the invalid provision.

2. Assignment of any rights or duties of the Buyer under a Contract requires the written consent of the Seller.

XIV. Place of performance, applicable law, arbitration and jurisdiction

1. The place of performance for both parties shall be the registered seat of the Seller.

2. THESE GENERAL TERMS AND CONDITIONS, ANY CONTRACT AND ALL SALES TRANSACTIONS RESULTING HEREBY, AND ANY DISPUTE ARISING FROM THE RELATIONSHIP BETWEEN THE PARTIES TO ANY CONTRACT, SHALL BE GOVERNED BY GERMAN LAW, SUBJECT TO THE EXCLUSION OF THE FOLLOWING NON-MANDATORY GERMAN LAW PROVISIONS: (i) THE LAWS REGARDING GENERAL CONTRACT TERMS AND CONDITIONS UNDER § 305 THROUGH §310 BGB (GERMAN CIVIL CODE), INCLUDING BUT NOT LIMITED TO, ANY NORMS THAT MAY IMPAIR LIMITATION OF LIABILITY CLAUSES, (ii) laws that direct the application of another jurisdiction's laws, and (iii) UN Convention on the International Sale of Goods (CISG).

3. All disputes between the parties (whether in contract or tort) and/or arising in connection with these General Terms and Conditions, any Contracts or their validity shall be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. The place of arbitration is Munich, Germany. The number of arbitrators is one. The language of the arbitral proceedings is English.

4. Subject to the arbitration clause herein, the courts of Landshut, Germany, shall have exclusive venue and jurisdiction with respect to these General Terms and Conditions, all Contracts and any disputes, claims and litigation between the parties. Notwithstanding this, the Seller reserves the right to adjudicate and pursue any claims against the Buyer at the Buyer's place of business or where the Buyer maintains assets.

Version of February 2021

Walter Föckersperger GmbH

Eberspointer Str. 6

84189 Pauluszell / Germany

HRB Landshut 1149

USt.-IdNr. DE128964382

Tel. 08742 / 43897-0
Fax. 08742 / 43897-99
Internet: www.foeck.com
E-Mail: office@foeck.com

Geschäftsführer:
Walter Föckersperger

Bankverbindungen:
Sparkasse Mühldorf
VR-Bank Vilshuburg eG
VR-Bank Landshut eG

IBAN
DE43 71151020 0000 280123
DE04 74392300 00000 92681
DE28 74390000 000 8936307

SWIFT (BIC)
BYLA DE M1 MDF
GENO DEF 1VBV
GENO DEF 1LH1