

General Terms and Conditions of Fischer Connectors GmbH

1. Definitions

- 1.1. **"FC GmbH"** means Fischer Connectors GmbH, Georg-Wimmer-Ring 10, 85604 Zorneding, Germany.
- 1.2. **"Order Confirmation"** means the written confirmation by FC GmbH to the Purchaser of FC GmbH's acceptance of a Purchase Order received from the Purchaser.
- 1.3. **"Purchase Order"** means any purchase orders received from the Purchaser by FC GmbH in relation to products and/or services of FC GmbH.
- 1.4. **"Purchaser"** means any legal entity or individual that purchases products and/or services of FC GmbH.

2. Application of these General Terms and Conditions

- 2.1. These General Terms and Conditions shall exclusively apply to any offer from FC GmbH, any Purchase Order and any Order Confirmation and shall form an integral part of all contracts between the Purchaser and FC GmbH. These General Terms and Conditions shall also govern all future transactions between the parties and shall also apply if we perform delivery despite our knowledge of differing or contrary terms.
- 2.2. The Purchaser acknowledges that it has read these General Terms and Conditions received from FC GmbH or on FC GmbH's website before ordering FC GmbH's products and/or services, and expressly and unconditionally accepts these General Terms and Conditions by placing any Purchase Order.
- 2.3. THESE GENERAL TERMS AND CONDITIONS ARE THE ONLY TERMS AND CONDITIONS GOVERNING THE SALE OF GOODS AND/OR PROVISION OF SERVICES BY FC GmbH TO THE PURCHASER. THESE GENERAL TERMS AND CONDITIONS SHALL PREVAIL OVER ANY OTHER GENERAL TERMS AND CONDITIONS, EXCEPT OTHERWISE EXPRESSLY AGREED IN WRITING BY FC GmbH. THE PURCHASER IN PARTICULAR WAIVES THE APPLICATION OF ITS OWN GENERAL TERMS AND CONDITIONS BY PLACING ANY PURCHASE ORDER WITH FC GmbH, EVEN IF THE PURCHASER'S TERMS AND CONDITIONS HAVE BEEN SUBMITTED TO FC GmbH BY THE PURCHASER WHEN PLACING ITS PURCHASE ORDER OR AT ANY OTHER MOMENT.
- 2.4. These General Terms and Conditions shall only apply vis á vis entrepreneurs, governmental entities, or special governmental estates within the meaning of sec. 310 para. 1 BGB (German Civil Code).

3. Offers, advertising materials, leaflets, prospectus, catalogues

- 3.1. Save as expressly provided otherwise, any technical data (such as technical documents, specifications, drawings, descriptions, sample, reproductions) provided to the Purchaser by FC GmbH in any FC GmbH's documents, such as any FC GmbH's offers, advertising materials, leaflets, prospectus or catalogues, in hardcopy or electronic form (including all technical data available on the website www.fischerconnectors.com and associated websites), shall be provided to the Purchaser for information purposes only. In no event may FC GmbH be bound by or liable (including in case of errors) for any technical data (such as technical documents, specifications, drawings, descriptions, sample, reproductions) contained in any FC GmbH's documents, such as any FC GmbH's offers, advertising materials, leaflets, prospectus or catalogues, in hardcopy or electronic form (including all technical data available on the website www.fischerconnectors.com and associated websites), unless such technical data is expressly guaranteed by FC GmbH to the Purchaser.
- 3.2. Our offers shall not be binding; in particular with reference to quantities, price and delivery time. The period of validity of any FC GmbH's offer shall be indicated in the offer itself.

4. Purchase Orders

- 4.1. All Purchase Orders received by FC GmbH from the Purchaser are subject to acceptance by FC GmbH. FC GmbH reserves the right to reject any Purchase Order.
- 4.2. The contract between the Purchaser and FC GmbH shall be deemed entered into only upon FC GmbH's express acceptance of the Purchase Order received from the Purchaser by sending an Order Confirmation to the Purchaser. The Purchaser shall review the Order Confirmation upon receipt and immediately inform FC GmbH of any error or anomaly. Should the Purchaser fail to do so, FC GmbH shall manufacture and/or deliver and/or provide the product and/or the services in accordance with the Order Confirmation, which shall be deemed binding on the Purchaser.

5. Purchase prices

- 5.1. Unless expressly agreed otherwise, all purchase prices are expressed in EUR (Euro) and exclusive of VAT and other taxes.
- 5.2. Unless expressly agreed otherwise, all prices are expressed as Ex-Works (EXW, Incoterms 2010), inclusive of packing costs, and without any kind of deduction. All incidental expenses (such as but not limited to insurance, freight charges, export, forwarding or import licences, other authorisations and certifications) shall be borne by the Purchaser. The Purchaser shall also be responsible for the payment of all taxes, levies, customs duties and other charges.
- 5.3. All prices shall be fixed provided that there is no increase in the manufacturing costs, including cost of materials and labour.

6. Conditions of payment

- 6.1. All invoices from FC GmbH shall be payable by the Purchaser within 30 days from the date of the invoice, unless otherwise expressly agreed and indicated in the invoice and the Order Confirmation.

6.2. All payments of the Purchaser to FC GmbH shall be made in full, without any set off, deduction or withholding for any counter-claim, taxes, duties or other charges. Any bank charges shall be borne by the Purchaser.

6.3. If the invoice is not settled within the such payment terms, and after due reminder from FC GmbH, FC GmbH shall be entitled to claim from the Purchaser payment of a default interest in the amount of 9 percentage points above the base lending rate. Interest shall accrue daily. The Purchaser shall reimburse FC GmbH for all costs incurred in collecting any late payment, including, without limitation, any reasonable legal fees. FC GmbH may also suspend performance of further deliveries of products and/or services in the event of a delay in payment by the Purchaser.

6.4. FC GmbH reserves the right to require the Purchaser to provide payment guarantees. If required, these payment guarantees shall be expressly stipulated by FC GmbH in its offer or before sending the Order Confirmation to the Purchaser.

7. Transfer of ownership, reservation of title, right to repossess the goods

7.1. Ownership of goods delivered to the Purchaser shall be transferred to the Purchaser upon full payment of the purchase price. The Purchaser shall cooperate in any actions to be taken for safeguarding the title of FC GmbH until full payment of the purchase price. The Purchaser shall keep the delivered goods in good conditions at its own expenses and properly insure them accordingly. As long as the purchase price has not been completely paid, the Purchaser shall immediately inform us in writing if the goods become subject to rights of third persons or other encumbrances.

7.2. The Purchaser may resell goods subject to the above retention of title only in the course of his regular business. For this case, the Purchaser hereby assigns all claims arising out of such resale, whether the goods have been processed or not, to FC GmbH. Notwithstanding FC GmbH's right to claim direct payment the Purchaser shall be entitled to receive the payment on the assigned claims. To this end, FC GmbH agrees to not demand payment on the assigned claims to the extent the Purchaser complies with all his obligations for payment and does not become subject to an application for insolvency or similar proceedings or to any stay of payments.

7.3. If the full purchase price is not paid, FC GmbH shall be entitled to withdraw from the contract and repossess the goods delivered to the Purchaser without any preliminary formalities and independently of any legal proceedings. The Purchaser undertakes not to oppose the application of this FC GmbH's right. Any expenses incurred by the application of this clause, as well as the repair of any deterioration and/or wear and tear of the goods concerned shall be entirely borne by the Purchaser.

8. Delivery periods

8.1. Delivery periods shall be mentioned in the Order Confirmation. Unless expressly agreed otherwise, such delivery periods shall be indicative only and not binding to FC GmbH.

8.2. The delivery periods indicated in the Order Confirmation shall run from the date of that Order Confirmation, provided all official formalities (e.g. authorisations to import and make payment) have been completed, necessary installation and safety requirements have been met and main technical issues have been settled.

8.3. FC GmbH shall be discharged from any commitment relating to delivery periods indicated in the Order Confirmation in the event of a force majeure (such as, without limitation, natural phenomena, epidemic, mobilisation, war, riot), disruption within FC GmbH (such as, without limitation, accidents, industrial disputes, delayed or defective deliveries of raw materials), or any other circumstances beyond FC GmbH's control. Delivery periods shall be extended proportionately in such cases.

8.4. Any delay in delivery shall not grant the Purchaser any right to payment of financial penalties and/or direct, indirect or consequential damages or the right to terminate or withdraw from the contract with FC GmbH. FC GmbH shall inform the Purchaser of any delivery delays in writing as soon as possible. Clause 12 shall remain unaffected.

8.5. In case of default in acceptance or other breach of duties to cooperate by the Purchaser FC GmbH is entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the goods passes to the Purchaser at the time of such default or breach of duty to cooperate.

9. Delivery of products, inspection and rejection of defaulting products

9.1. Delivery of goods to the Purchaser is considered as once the goods have been made available to the Purchaser at FC GmbH's facility (Ex-Works, Incoterms 2010).

9.2. Delivery is made at the Purchaser's risk and expenses (Ex-Works, Incoterms 2010), unless expressly agreed otherwise and indicated in FC GmbH's offer or in the Order Confirmation. At the written request of the Purchaser, FC GmbH will take out freight insurance on the consignment. Any resulting costs shall be invoiced to the Purchaser. Unless specifically instructed by the Purchaser, FC GmbH shall select an appropriate method of forwarding and routing the goods which shall not be guaranteed by FC GmbH as the fastest or least expensive delivery method for those goods.

9.3. Before signing the carrier's delivery note, the Purchaser shall have to indicate thereon any missing or damaged items.

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- 9.4. The Purchaser shall be required to check the delivered goods on receipt. The Purchaser shall notify FC GmbH, in writing, of any defects within eight (8) days following acceptance of the delivery, enclosing the delivery note with the detailed complaint. In the absence of a notice of defects from the Purchaser within this deadline, the goods shall be deemed accepted by the Purchaser. Latent defects have to be reported by the Purchaser in a written detailed complaint immediately after discovery of the defect(s) and within the warranty period (article 11 below), failing which FC GmbH shall decline all warranties or liability.
10. **Transfer of benefits and risks**
- 10.1. The benefit and risks shall pass to the Purchaser at the moment the delivery of the goods is complete, i.e. once the goods have been made available to the Purchaser at FC GmbH's facility (article 9.1 above).
- 10.2. If delivery is postponed at the Purchaser's request, or delayed for any reason beyond FC GmbH's control, the benefits and risks shall pass to the Purchaser at the time the delivery was originally scheduled to leave FC GmbH's factory. From this moment, the goods shall be stored for the account and at the risks and expenses of the Purchaser.
11. **Warranty**
- 11.1. Precondition for any warranty claim of the Purchaser is the Purchaser's full compliance with all requirements regarding inspection and objection established by sec. 377 HGB (German Commercial Code) and article 9 above
- 11.2. THE WARRANTY PERIOD FOR THE PRODUCTS AND SERVICES OF FC GmbH IS 12 MONTHS, STARTING WHEN THE CONSIGNMENT LEAVES FC GmbH'S FACTORY. IF DELIVERY IS POSTPONED AT THE PURCHASER'S REQUEST, OR DELAYED FOR ANY REASON BEYOND FC GmbH'S CONTROL, THE WARRANTY PERIOD SHALL BE 12 MONTHS STARTING FROM NOTIFICATION TO THE PURCHASER THAT THE CONSIGNMENT IS READY FOR DELIVERY.
- 11.3. The warranty shall be void if the Purchaser or any third party carries out modifications or repairs on the products or services without the prior written agreement of FC GmbH, or if the Purchaser does not immediately take suitable measures to prevent the aggravation of the damage and permit FC GmbH to rectify the defect.
- 11.4. At the written request of the Purchaser and provided that products and services are proved to be, and acknowledged by FC GmbH as, defective or unusable because of substandard materials or manufacturing defect(s), FC GmbH undertakes, at FC GmbH's option and as quickly as possible, to repair or replace all parts of the products or services which are defective or unusable because of substandard materials or manufacturing defect(s). The replaced parts shall become the property of FC GmbH. FC GmbH's right to refuse subsequent performance pursuant to the statutory provisions shall remain unaffected.
- 11.5. UNLESS EXPRESSLY AGREED OTHERWISE, FC GmbH SHALL NOT GUARANTEE THE PURPOSE OF USE OF ITS PRODUCT OR SERVICES INTENDED BY THE PURCHASER.
- 11.6. FC GmbH shall not be liable for defects, lack of sufficiency, lack of fitness for particular purpose or lack of quality of custom connectors or cable assembly solution to the extent attributable to the Purchaser's instructions, specification or other directions.
- 11.7. If the Purchaser provides elements to FC GmbH, which are manufactured by the Purchaser or by a third party, for the provision by FC GmbH to the Purchaser of custom connectors or cable assembly solutions, these elements shall be delivered free of charge to FC GmbH's factory at the Purchaser's full risks. In no event may FC GmbH be liable if such elements are not delivered in time, in sufficient quantity or in an acceptable condition. In no event may FC GmbH be liable for the technical functional performance, quality deficiency or any other defects of such elements. FC GmbH reserves the right to refuse to use such elements if they do not meet FC GmbH's quality requirements and standards. In such cases the Purchaser shall indemnify FC GmbH for any related additional costs FC GmbH may incur or any damages caused to FC GmbH.
- 11.8. The Purchaser shall be liable for breach of any intellectual property rights or other rights of third parties relating to such elements provided by the Purchaser to FC GmbH. The Purchaser shall fully indemnify FC GmbH for any damages (including legal fees) due to any claim of any third party in relation to elements provided by the Purchaser to FC GmbH.
12. **Limitation of liability**
- 12.1. FC GmbH can be held liable for damages - irrespective of their legal grounds - in cases of intent and gross negligence. In cases of slight negligence, we shall only be liable
- 12.1.1. for damage resulting from injuries to life, body or health,
- 12.1.2. for damage resulting from an infringement of an essential contractual obligation (an obligation which must be fulfilled to enable a due performance of the contract and on whose fulfilment the contractual partner generally relies and may rely); however, in this case FC GmbH's liability shall be limited to compensation for the foreseeable, typically occurring damage.
- 12.1.3. The limitations of liability pursuant to article 12.1 shall not apply where FC GmbH fraudulently concealed a defect or guaranteed the quality of the
- goods. The same applies to claims of the Purchaser pursuant to the German Product Liability Act (ProdHaftG).
- 12.2. An exclusion or restriction of our liability also applies with respect to our statutory representatives and vicarious agents.
- 12.3. FC GmbH shall not be liable for any failure to perform its obligations hereunder or under the contract with the Purchaser due to circumstances beyond its reasonable control (force majeure event), including any impediments arising out of local or international foreign trade and custom requirements or any embargos or other sanctions (such as export control provisions).
13. **Technical reservation**
- 13.1. Unless expressly agreed otherwise with the Purchaser, FC GmbH's products and services shall comply exclusively with the rules, regulations and standards in force in Switzerland. In no event may FC GmbH be liable for breach of any rules, regulations or standards applicable in another jurisdiction, especially in the Purchaser's country of domicile or the country of domicile of the Purchaser's clients.
- 13.2. Unless expressly agreed otherwise with the Purchaser, FC GmbH shall, where required for complying with statutory and/or regulatory provisions or where reasonable, be free to make any change at any time and at its entire discretion to its products and services, manufacturing processes and methods, testing, quality control and assurance processes, system and status, procedures, input, policy, materials, specifications, packaging, labelling, software, environment conditions, equipment, manufacturing site, without having to inform, notify or get the approval of the Purchaser.
- 13.3. FC GmbH shall also be free to change its subcontractors, third party suppliers, and/or third party service providers, if any, without having to inform, notify or get the approval of the Purchaser.
- 13.4. In no event may FC GmbH have to comply with, and be liable for breach of, any law, rules or regulations applicable to the Purchaser using products or services supplied by FC GmbH for its own products, services, or for any other purpose.
- 13.5. Unless expressly agreed otherwise with the Purchaser, FC GmbH shall be entitled to unilaterally amend the technical specifications of the products and/ services indicated in the Order Confirmation, provided that such amendments do not trigger any increase of the purchase price indicated in the Order Confirmation, and the design, fitness, functionality and performance of such products and/or services is at least equivalent to those of the products or services initially ordered.
14. **Intellectual property**
- 14.1. All technical data communicated to the Purchaser shall remain the intellectual property of FC GmbH, or of another company belonging to FC GmbH's group as the case may be, and may not be reproduced nor copied, communicated to third parties nor used in any way whatsoever without prior written authorisation by FC GmbH.
15. **Jurisdiction, applicable law**
- 15.1. Place of performance and exclusive place of jurisdiction for any dispute, controversy arising out of or in connection with any contract between FC GmbH and the Purchaser, including the validity, breach or termination thereof, SHALL BE MUNICH, GERMANY.
- 15.2. Any contractual relationship between the Purchaser and FC GmbH and any Purchase Order shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on contracts for the international sale of goods of 11 April 1980 (known as the Vienna Sale of Goods Convention) shall not apply and is expressly excluded.