

# **General terms and conditions of Fenos AG**

## **1. General**

The General Terms and Conditions (hereinafter referred to as "GTC") are part of all future contracts, deliveries and other services between Fenos AG and the customers. We do not accept any terms and conditions contrary to or deviating from these GTC, unless they have been confirmed by us in writing.

## **2. Offer, conclusion of contract**

Our offers are always free of charge and subject to change. A contract of sale shall only be concluded by our order confirmation. Quantities may vary for safety and filling reasons.

## **3. Prices, payment**

The prices stated in our offers are exclusive of the statutory value added tax. Unless otherwise agreed, the invoice amounts are due immediately and without deduction. We reserve the right to charge interest on arrears from the due date in accordance with the statutory regulations. In the event of default in payment, we shall be entitled to make further deliveries conditional upon full payment of the outstanding amounts in default. Offsetting against counterclaims of the customer is only permitted if the counterclaims are undisputed or have been legally established. A payment shall be deemed to have been made in due time if we can dispose of the amount with value date on the due date on our specified account.

## **4. Delivery, transfer of risk**

Unless otherwise agreed, deliveries shall be made EXW Freiberg a.N.. We are entitled to make partial deliveries within reasonable limits. Delivery dates are non-binding and shall be extended appropriately and at least by the duration of the hindrance in the event of force majeure and the occurrence of other unforeseeable events beyond our control and for which we are not responsible. This applies in particular in the case of strike, lockout, war, insofar as events can be proven to have a considerable influence on the ability to deliver. If these circumstances last uninterruptedly for more than 3 months, both contracting parties have the right to withdraw from the contract.

The delivered IBC containers are loaned containers which may only be disposed of after prior consultation with us. In the event of transport damage and externally visible damage, the customer must have this confirmed in

writing by the transport company on the delivery documents and inform us of this immediately in writing.

The risk of loss or deterioration of the ordered goods shall pass to the customer upon delivery of the goods (time of handover to the carrier).

## **5. Consultation, processing, product characteristics**

Our advice regarding the goods and their use is non-binding. The characteristics of the products are described in the Technical Information. The Technical Information valid at the time of the purchase contract shall apply. No properties can be expected from our goods which are not specified in our Technical Information. Consumption and processing instructions may vary depending on the type of use, therefore they do not release the customer from the obligation to independently carry out suitability tests before using the goods. Tolerances in shape, color, quantity and weights customary in the industry are reserved.

## **6. Retention of title**

Ownership of the goods shall not pass to the customer until the purchase price and all other claims, including future claims, arising from the business relationship with us have been paid in full. As long as the ownership has not yet been transferred to the customer, the customer undertakes to sufficiently insure the goods subject to retention of title at his storage location against fire, theft and water or other damage. If the customer processes, combines or mixes the reserved goods with other goods (processed goods shall also be deemed reserved goods), we shall be entitled to co-ownership of the new item in the ratio of the purchase price of the reserved goods to the purchase price of the other goods used. If our ownership expires during processing, combination and mixing, the customer shall transfer to us the ownership rights to the new item to which he is entitled to the extent of the purchase price of the reserved goods. The customer shall keep the new item in safe custody for us with due diligence. The customer shall be entitled to sell the reserved goods - he hereby assigns to us all claims arising from the resale in the amount of our claims and we accept this assignment. If the value of the securities to which we are entitled exceeds the value of the claims by more than 10%, we undertake to release the securities to which we are entitled to this extent. The customer is obliged to inform us immediately of any seizure or other impairment of the reserved goods by third parties. The customer must immediately inform the executing body and the execution creditor that the goods subject to retention of title are our property or co-property, or that the rights thereto have been assigned. In case of breach of contract by the customer, in particular in case of default of payment, we shall be entitled to take back the object of sale. The taking back of the object of sale does not constitute a withdrawal from the contract. We shall be entitled to utilize the repossessed object of sale and to offset the proceeds against the customer's liabilities (less reasonable administrative costs).

## **7. Defects**

The customer has to examine the delivered goods, as far as reasonable by trial processing, immediately after delivery for defects with regard to quantity and quality and to inform us immediately in writing of any defects found. If the goods are defective, we shall provide subsequent performance in accordance with the statutory provisions. Our consent must be obtained before returning any goods. The limitation period for claims for defects is 6 months - from the date of delivery.

## **8. Liability**

We are liable for damages incurred in the absence of an agreed property, in the case of intent and gross negligence in accordance with the statutory provisions. Other claims for damages by the customer or claims for reimbursement of expenses against us, on whatever legal grounds, are excluded. In the event of a breach of material contractual obligations, a claim for damages shall be limited to the foreseeable damage typical for the contract. We shall not be liable for damages incurred by the customer due to improper use of our products.

## **9. Export clause**

Deliveries and services are subject to the proviso that there are no obstacles to performance due to national or international export control regulations, in particular embargoes or other sanctions. The customer undertakes to provide all information and documents required for the export or shipment. Delays due to export inspections or licensing procedures shall invalidate deadlines and delivery periods. If required approvals are not granted or if the delivery and service cannot be approved, the contract shall be deemed not to have been concluded. Claims for damages are excluded in this respect and due to the aforementioned exceeding of deadlines. When passing on our goods and documents to third parties in Germany and abroad, the customer shall comply with the applicable provisions of national and international export control law.

## **10. Data protection / Confidentiality**

The documents provided by us are to be treated confidentially. The customer undertakes to maintain confidentiality for an unlimited period of time with regard to the business and trade secrets and know-how of technical product knowledge obtained during the cooperation. Publication or disclosure to third parties is only permitted with our consent.

## **11. Place of performance and jurisdiction**

The place of performance for all claims arising from the business relationship between us and our customers is Freiberg a.N.. The place of jurisdiction for all claims including those arising from documents, bills of exchange and checks

is the court responsible for our place of business. If trade clauses according to INCOTERMS have been agreed, these shall apply in the currently valid version. We shall also have the right, at our discretion, to bring an action at the customer's place of business. The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

Should any of the above clauses be or become ineffective, the ineffective conditions shall be replaced by such provisions that come closest to the economic purpose of the contract, with due regard for both interested parties and existing laws. Any amendments or additions require written confirmation.