

## **General Terms and Conditions of Purchase (GTCP) of Faigle Holding AG effective with January 2022**

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### **1. Scope of Application, General Provisions**

- 1.1 These General Terms and Conditions of Purchase ("GTCP") apply to business transactions in which Faigle orders works, goods or services from a natural or legal person ("the Vendor") in exchange for compensation, unless otherwise agreed in writing.
- 1.2 The version of Faigle's GTCP as amended on the date of conclusion of the contract applies.
- 1.3 The GTCP apply regardless of whether the Vendor produces the goods, the work or the service themselves, or purchases them from a supplier.
- 1.4 Mere general reference to printed or otherwise mechanically reproduced terms of sale of the Vendor has no influence on the applicability of these GTCP.
- 1.5 Conflicting, deviating or supplementary terms and conditions of the Vendor are hereby expressly excluded. They will only form part of the contract in so far as Faigle expressly approves them or parts of them in writing.  
This requirement for approval applies without exception.
- 1.6 These GTCP also apply to all future contractual relationships, including supplementary contracts that do not refer explicitly to the GTCP.
- 1.7 Changes to the GTCP will be communicated to the Vendor by us, and are considered agreed if the Vendor does not object to the amended GTCP in writing within 14 days.  
In case of contradiction, the applicable GTCP as amended prior to the change will apply.
- 1.8 Faigle employees who are not registered in the company register are not authorised to make agreements that deviate from these GTCP. Such agreements only apply if expressly accepted by employees who are registered in the company register in writing.

### **2. Precedence**

The following parts of the contract apply, in the following order of precedence:

- The written agreement by which the contract is formed  
(e.g. contract, order confirmation)  
The specifications stated in the order and specific and general technical conditions  
(e.g. requirements document, performance specification document, specifications, samples, drawings, etc.)
  - These GTCP
  - Any tender and/or quotation documents
- Superior parts take precedence over the following parts.

### **3. Orders**

- 3.1 Faigle is only bound by written orders submitted by fax, post or e-mail. In order to be legally binding on Faigle, any verbal agreement requires separate written confirmation.
- 3.2 The Vendor waives the right to object based on any additional verbal agreement whatsoever.
- 3.3 In case of deviations between the order and the Vendor's order confirmation, the deviations will only constitute part of the contract following written confirmation by Faigle.

### **4. Quotations**

- 4.1 All offers and cost quotations are free of charge and non-binding. The Vendor undertakes to carefully review all information provided by Faigle and to conform to all of Faigle's specifications, including those regarding quotations issued electronically.
- 4.2 A Vendor's quotation does not give rise to any obligations on the part of Faigle.

### **5. Prices**

- 5.1 The prices quoted in the order are fixed prices and, unless otherwise agreed, include standard packing and all additional expenses, such as shipping costs, insurance, export or import licences or other permits. Faigle explicitly does not accept price adjustment clauses, unless separately negotiated and agreed in writing.
- 5.2 Prices include delivery to Faigle's works. If, in exceptional cases, purchases are agreed on ex works terms or with delivery to another agreed location, the Vendor will bear all of the expenses and costs of carriage arising up to the delivery station.
- 5.3 If prices have not been previously agreed, binding prices must be provided in the order confirmation. Faigle reserves the right to object to prices or withdraw from the contract.

## **6. Invoicing**

- 6.1 The invoice must be clearly assignable to the order and sent to the invoice address provided in the order following delivery or performance.  
At Faigle's request the invoice must be issued electronically.
- 6.2 Invoices for part deliveries or part performance must be marked "Invoice for partial delivery" or "Invoice for part performance," respectively. In such cases, final invoices must be marked "Invoice for remainder of goods" or "Invoice for remainder of services".
- 6.3 Statutory VAT must be stated separately on every invoice.
- 6.4 Original invoices must not be enclosed with the delivery of goods.
- 6.5 Faigle will not accept invoices that do not conform to these conditions or statutory requirements, in particular taxation requirements.

## **7. Payment Terms**

- 7.1 Payment periods, including discount periods, do not commence until proper receipt of the invoice by Faigle.
- 7.2 In case of delivery of goods after receipt of the invoice, the payment period will only begin on receipt of the goods.
- 7.3 Unless payment terms are agreed separately, at Faigle's discretion the terms will either be net within three months of the invoice date, or with a 2% cash discount for payment within 30 days of receipt of the invoice, or with a 3% cash discount for payment within ten days, with the payment method to be determined by Faigle.
- 7.4 Payment of the purchase price does not have any effect on claims against the Vendor and does not represent any admission as regards proper delivery of the goods or proper performance of the services provided.
- 7.5 Faigle will be entitled to withhold payment of a reasonable amount in case of defective goods or performance.
- 7.6 Faigle is entitled to set off receivables for goods or services it has provided without limitation.

## **8. Delivery**

- 8.1 The delivery or performance dates stated in the order are binding.
- 8.2 A delivery note including the order number must be included with every delivery.
- 8.3 The Vendor has a duty to inform Faigle without delay if circumstances arise or become apparent to the Vendor which may result in failure to meet the agreed delivery date.
- 8.4 If a delivery is not made within the delivery period, Faigle will be entitled, at its own discretion and without giving notice, either to demand delivery at a later date and claim damages for delayed delivery, or to withdraw from the contract and claim demand damages for non-performance.

## **9. Place of Fulfilment and Shipping**

- 9.1 Unless otherwise agreed the place of fulfilment for delivery is Hard.
- 9.2 Deliveries transported by rail must be directed to the station stated in the order.  
The Vendor will be liable for the consequences of incorrect consignment declarations.
- 9.3 Faigle must be notified without delay on dispatch of each delivery. The notification must include the expected time of delivery. If deliveries are made at times other than the agreed delivery dates, the Vendor will bear the related costs, including for standby time.
- 9.4 Should Faigle incur any charges or costs of any kind whatsoever due to deficiencies in transport documentation, the Vendor must reimburse Faigle for all such expenses.
- 9.5 If the sales contract constitutes an intra-Community triangular transaction, the Supplier must explicitly state this on the invoice, as well as indicating that liability to pay VAT is transferred to the recipient under the reverse charge system.

## **10. Transfer of Risk**

- 10.1 The risk of accidental loss is only transferred to Faigle after goods have been delivered to the place specified in the order, or the Vendor's goods or services have been accepted by Faigle.
- 10.2 Transfer of ownership takes place on completion of the unloading process at Faigle's premises or at the destination specified by Faigle.  
If goods are to be accepted by Faigle when deliveries are made, transfer of ownership takes place upon complete acceptance, or at the latest on payment of the purchase price.

## **11. Retention of Title**

- Any retention of title is expressly rejected.

## **12. Warranty, Guarantee**

- 12.1 The Vendor warrants that goods and services are free from defects and conform to the agreement with Faigle, in particular requirements according to point 13.3 of these terms and conditions.  
All goods must comply with the applicable technical standards and statutory regulations.
- 12.2 The Vendor has a duty to ensure that goods undergo an adequate outgoing inspection that corresponds to the state of the art before leaving the Vendor's works, and that defective goods are not dispatched. For this reason, Faigle will not inspect any incoming goods.
- 12.3 Faigle will check whether the delivery corresponds to the order with regard to the quantity and type of goods, and whether external damage has occurred in transit or other noticeable defects are present. Faigle will report such defects to the Vendor immediately. Defects identified subsequently will be reported within a reasonable period. The Vendor waives the right to object to late notification of defects.
- 12.4 In the case of goods delivered or services performed that are defective upon delivery, the Vendor must, without prejudice to other claims for damages or under warranty, at Faigle's discretion, either: (a) replace the defective goods or services immediately with goods or services in perfect condition and in accordance with the contract, and at the Vendor's expense, or (b) reimburse Faigle for the costs of removal of the defect by Faigle.
- 12.5 Unless a longer period is required by law, the warranty period is 24 months from complete transfer of the goods, or in the case of delivery with acceptance 24 months from acceptance of the delivery.
- 12.6 The limitation period is three months after the expiry of the warranty period.
- 12.7 Claims for latent defects can be asserted after expiry of the warranty period, but within six months of detection at the latest.
- 12.8 If defects become apparent within these warranty periods, Faigle may demand that the goods be repaired or exchanged, or that the price be reduced, or may declare its intention to terminate the contract and withhold payment of the value of the defective goods/services until proper fulfilment.
- 12.9 Repair or exchange of the goods or services must be carried out within a reasonable period and protect Faigle's interests as far as possible, in particular regarding operational processes.
- 12.10 All costs arising from repair, exchange, price reduction or termination of the contract will be borne by the Vendor.
- 12.11 In case of a warranty claim resulting in repair or exchange, the warranty period for the repaired or exchanged parts recommences upon complete transfer or acceptance.

## **13. Duties of the Vendor**

- 13.1 The Vendor will be liable regardless of fault for consequential damages and for damage to third parties due to a defect in delivered goods.
- 13.2 For a period of ten years following acceptance the Vendor is obliged to provide, on request and without delay, the address of the manufacturer, importer, supplier or subvendor of the delivered goods. The Vendor also has a duty to inform Faigle without delay and without request of all new information and all cases of loss or damage in connection with the product range delivered.
- 13.3 Delivered goods must always conform to the state of the art and the agreed specifications, including agreed samples and models, and demonstrate the properties generally expected of such goods.
- 13.4 The Vendor waives the right to object based on its exemption from liability as a retailer. If the Vendor has acted as a retailer, it undertakes to be liable to the same extent as its supplier or the original producer of the goods.
- 13.5 The Vendor will also be liable for damage to property suffered by Faigle in the course of its business.

## **14. Intellectual Property Rights**

- 14.1 The goods supplied must be free of third-party intellectual property rights. Faigle must be entitled to own and use the supplied goods worldwide without limitation in time.
- 14.2 Faigle will be entitled to withdraw from the contract if the rights of a third party are infringed and it is not possible for the Vendor to procure the required rights for Faigle.  
The Vendor assumes liability for all losses incurred by Faigle as a result of such cases.

## **15. Outsourcing of orders to third parties**

- 15.1 Without Faigle's prior written consent, the Vendor may not transfer its obligations under the contract or the order, in whole or in part, to third parties or have the services and work assigned to it performed by third parties.
- 15.2 Faigle will grant its consent provided that there is no apparent reason to withhold such consent. Such consent does not affect the Vendor's contractual obligations to Faigle in any way.
- 15.3 If the Vendor engages third parties for fulfilment of the contract or the order without Faigle's prior written consent, Faigle may withdraw from the contract in whole or in part and/or claim damages.

## 16. Assignment of Rights

Assignments of claims and any other transfers of the Vendor's rights vis-à-vis Faigle will only be effective with Faigle's written agreement.

## 17. Force Majeure

- 17.1 In case of hindrance of Faigle's business operations by force majeure, Faigle may rescind the contract with the Vendor in whole or in part, or request execution at a later time, without giving rise to any claims of the Vendor.
- 17.2 Likewise, the Vendor will be exempted from its obligations if non-performance is due to force majeure, provided that such circumstances directly affect the Vendor's obligations in relation to the order and that the Vendor, despite reasonable efforts, is not only temporarily prevented from performance.
- 17.3 For the purposes of this agreement, "force majeure" means fire, flood, earthquake, pandemic or other unforeseeable serious events.
- 17.4 The Vendor must inform Faigle of the onset and expected duration of force majeure circumstances without delay as soon as they occur or their future occurrence can be predicted. If the Vendor does not comply with this duty of information, it will be liable for non-performance according to these GTCP regardless of force majeure.
- 17.5 If the force majeure circumstances affecting the Vendor persist for longer than ten working days, Faigle will be entitled to withdraw from the contract in whole or in part. Such withdrawal will not result in any claims of the Vendor against Faigle.
- 17.6 If the contract is cancelled due to force majeure, any advance payments made by Faigle must be repaid in full and without possibility of set-off.

## 18. Termination of the Contract

- 18.1 Faigle is entitled to terminate the contract in writing with immediate effect if the Vendor infringes the confidentiality obligation or these GTCP and the infringement is not rectified following written notification.
- 18.2 This does not affect the statutory provisions for termination.

## 19. Insurance, Product Liability

- 19.1 Faigle is entitled to request proof from the Vendor that it has taken out adequate, customary business and product liability insurance coverage, or other proof of coverage for any and all claims due to product defects.
- 19.2 The Vendor undertakes to assume liability for all claims for recourse against Faigle based on product liability in the meaning of the Austrian Produkthaftungsgesetz (Product Liability Act), provided that such claims are attributable to the Vendor.

## 20. Data Protection

- 20.1 Faigle and the Vendor are obliged to comply with the provisions of the Austrian Datenschutzgesetz (Data Protection Act), the EU General Data Protection Regulation (GDPR) and all other statutory confidentiality obligations.
- 20.2 Faigle processes the personal data required for the purposes of fulfilment of the contract. Detailed information related to data protection law (privacy statement) in accordance with Art. 13ff GDPR can be found on Faigle's website at <https://www.faigle.com/en/privacy-notice> or requested by e-mail to [dataprotection@faigle.com](mailto:dataprotection@faigle.com).
- 20.3 The Vendor has a duty to take all required data protection measures, in particular those in the meaning of the GDPR (e.g. obtaining declarations of consent from data subjects) so that Faigle may process personal data for the purposes of the contractual relationship.

## 21. Non-disclosure

The Vendor undertakes to keep confidential and not disclose any trade secrets of which it becomes aware in the course of the business relationship, in particular with regard to patents and production methods. Trade secrets include, in particular, information which Faigle expressly indicates as secret. The Vendor has a duty to ensure that its staff adhere to this non-disclosure obligation. The confidentiality obligation will remain valid after the contractual relationship has ended.

## 22. Court of Jurisdiction, Choice of Law, Language of Contract

- 22.1 The court with subject-matter jurisdiction in A-6800 Feldkirch will have exclusive jurisdiction in all disputes arising from and in connection with agreed orders and these GTCP.
- 22.2 Austrian substantive law applies to the contractual relationship, excluding international conflict of law rules (e.g. IPRG, ROM I-Regulation).
- 22.3 The language of contract is German.

**23. Severability**

If provisions of these GTCP are without legal force, or are or become invalid and/or void, this does not affect the legal force or validity of the remaining provisions. In such cases, a legally enforceable, valid provision will be deemed agreed that - as far as possible and legally admissible - has the equivalent economic effect as the provision to be replaced.

**24. Final Provisions**

- 24.1 All legally binding declarations must be sent in writing to the most recent address provided in writing by the other party to the contract. If a declaration is sent to the most recent address provided in writing, it will be deemed to have been received by the other party.
- 24.2 The headings given to individual sections are intended solely to provide an overview, and are therefore not to be included in construction or interpretation of the contract.

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