



General Terms and Conditions (GT&Cs)

I. General provisions

1. Business relations between feno GmbH (hereinafter referred to as feno) and the Customer are governed exclusively by the following General Terms and Conditions (hereinafter also referred to as T&Cs). By placing an order for goods or services (hereinafter also referred to as products), the Customer accepts the latest version of the T&Cs of feno as binding. Any other General Terms and Conditions that differ from them, contradict them or supplement them are not part of the contract, even if they are known to feno, unless feno expressly agrees in writing that they are applicable.

2. feno sells exclusively to entrepreneurs. Customers within the meaning of the T&Cs are therefore exclusively entrepreneurs. Entrepreneur means any natural or legal entity or legally responsible unincorporated firm which buys or sells in carrying on a commercial or independent professional activity. The goods and services presented in the feno catalogs, on the feno website and in the feno online shop (hereinafter also referred to as product presentations) are therefore intended exclusively for entrepreneurs; the same applies to other feno product presentations.

3. Orders may only be placed by Customers who are acting in their capacity as entrepreneurs. Consumers are not entitled to order goods from feno. A Consumer means any natural person whose purpose in buying and selling cannot be attributed to either their commercial or their independent professional activity. In placing an order the Customer indicates that the transaction is intended exclusively for his activity as an entrepreneur. Before placing an initial order with feno, Customers shall register with feno and submit copies of documents (or upload scans of such documents) which prove their capacity as entrepreneurs (tradespersons: trading certificate; self-employed without a trade: membership certificate for professional association or chamber of commerce; other Customers acting as entrepreneurs: appropriate official documents). At the request of feno, copies of the documents must be resubmitted or originals produced.

4. feno reserves, without limitation, all of our exploitation rights under property and copyright laws in quotations, drawings and other documents. Third-party access to documents is permitted only if feno gives its approval in advance, and the documents must be returned to us immediately on request, and in particular if a contract is not made. Sentences 1 and 2 above apply as appropriate to documents of the Customer; feno is, however, permitted to grant access to these by third parties which feno is allowed to involve in fulfilling the contract.

5. The Customer has the non-independent right to use standard feno software with the stipulated user facilities in unmodified form on the agreed equipment. The Customer may create two backup copies without express agreement.

6. feno reserves the right to change the T&Cs at any time without notice and with future effect.

II. Contract territory, changes to product range and product presentations

1. The contract territory is the Federal Republic of Germany and the territories of the other Member States of the European Union; specific territories within the contract territory may be excluded by feno. Territories outside the contract territory may be included in the contract in individual cases.

2. feno reserves the right to change the product presentations at any time without notice and to remove individual goods and services from the product range entirely or replace them with other goods and services.

III. Conclusion of contract

1. The goods and services presented in the feno catalogs, on the feno website and in the feno online shop as well as other product presentations do not constitute offers that are binding on feno; instead they are invitations to the Customer to submit a binding offer to feno by placing an order. By placing an order for goods or services, the Customer makes a binding declaration of its intent to purchase the goods or receive the services and thereby makes an offer to feno to conclude an appropriate contract. All orders are subject to the ability of feno to supply the goods or services.

2. feno is not obliged to accept the offer inherent in the order. The offer may be accepted by feno within two weeks of receipt. Confirmation of receipt of an order does not justify concluding a contract. A contract does not come into force until feno expressly declares its acceptance of the order or until feno confirms the order separately by email, or until goods are delivered or services are supplied.

3. Statements, plans and other data of the Customer may be used in their entirety as a basis for the order. The Customer is solely responsible for the accuracy of statements made by it. The Customer is obliged to satisfy itself of the completeness and accuracy of the goods or services offered, and is responsible for verifying their suitability for the intended use. feno is not under any obligation to verify statements made by the Customer.

IV. Prices and delivery costs, payment terms, billing, offsetting, right of retention

1. Prices are ex-works, exclusive of shipping and packaging costs, and exclusive of sales tax at the current rate. Unless indicated in the online shop, shipping and packaging costs will be calculated in advance by feno on request by the Customer and will be notified to the Customer. The shipping costs notified or indicated at the time the contract was concluded shall apply.

2. The Customer can pay for ordered goods or services by credit card, an online payment method, prepayment or cash in person. feno is entitled to exclude any of the specified payment types. feno may allow existing customers to pay for ordered goods or services on receipt of an invoice.

If an online payment system is used (e.g. PayPal, instant transfer) the Customer expressly authorizes feno to collect the due amounts at the time of the order.

If the prepayment method is used the Customer shall transfer the full invoice amount to the account nominated by feno, specifying the reason for payment, within five calendar days of receipt of the order. feno will reserve the ordered goods or services for a period of five calendar days.

If payment is by credit card, the Customer expressly authorizes feno to collect the due amounts on dispatch of the goods or performance of the services.

If payment is to be by invoice, the Customer is obliged to pay the invoice amount within 30 days of dispatch of the goods or performance of the services, without any discount.

If the Customer defaults on a payment or a charge-back is made, then feno reserves the right to claim for appropriate damages (e.g. charge-back fee, default interest, collection charges).

Invoices will be sent to the postal address or email address specified by the Customer.

3. The Customer may only set off debt claims if they are undisputed, established to be legally valid or ready for decision.

4. In the case of contracts with merchants, as defined by §§ 1 ff. of the German Commercial Code [HGB], which have made the contract for the running of their own business, the Customer may only withhold payments if the counterclaim on which the right to withhold performance is based is undisputed, established to be legally valid or ready for judgment.

V. Reservation of title and secondary obligations

1. feno retains title in the goods until the purchase price has been settled in full, or until the agreed consideration has been paid. In the case of contracts with merchants as defined in §§ 1 ff. HGB, which have made the contract for the running of their own business, we retain title in the goods until all debt claims arising from an ongoing business relationship have been discharged in full. Once the value of all security rights attributable to feno amounts to more than 150 % of all secured claims, feno will, if the Customer so wishes, release that part of the security rights which is over 150 %.

2. While the reservation of title is in effect the Customer is obliged to

- a) refrain from giving a pledge for or effecting a transfer of security for the goods;
- b) advise feno immediately of any access to the goods by third parties, such as in the event of seizure, confiscation or other disposition or encroachments by third parties, as well as any damage to or destruction of the goods;
- c) advise feno immediately of a change of ownership of the goods, and of any change of its own domicile;
- d) handle the goods with due care;
- e) carry out any mandatory maintenance and inspection work at its own expense.

If any of these obligations is not met, feno has the right to cancel the contract in accordance with Section VI. Subsection 1.

3. In the case of contracts with merchants, as defined by §§ 1 ff. HGB, which have made the contract for the running of their own

business, the Customer has the right of disposal over reserve goods in the normal course of business only subject to the following regulations:

Reservation of title is extended to all debt claims of the Customer against third parties which the Customer acquires by the reselling of the items supplied. The Customer shall assign these debt claims to feno on the date they come into being; feno shall accept the assignment. The Customer has the right to recover the debt. The authority of feno to recover the debt itself is not affected by the above. However, feno undertakes not to recover the debt, provided the Customer properly fulfills its payment and other obligations. If requested to do so, the Customer shall provide feno with all details necessary for the recovery, hand over the relevant documents, and notify the debtor of the assignment.

4. In the case of contracts with merchants, as defined by §§ 1 ff. HGB, which have made the contract for the running of their own business, reservation of title is extended to finished goods as follows. The processing of the goods by the Customer is done for feno, on behalf of feno and on the instructions of feno if at the time of processing the purchase price for our goods has not been paid in full, or the agreed consideration has not been settled in full; feno becomes the owner of the newly created article. If the new article is produced with materials from different conditional owners which have supplied their goods subject to extended reservation of title, feno then acquires a co-ownership share of the new article. That share is equivalent to the proportion of the values of the goods supplied subject to extended reservation of title. The Customer has the right of disposal over finished goods in the normal course of business, subject to the following regulations: The Customer shall assign debt claims arising from the sale of the finished goods to feno on the date they come into being; feno shall accept the assignment. The Customer has the right to recover the debt. The authority of feno to recover the debt itself is not affected by the above. However, feno undertakes not to recover the debt, provided the Customer properly fulfills its payment and other obligations. If requested to do so, the Customer shall provide feno with all details necessary for the recovery, hand over the relevant documents, and notify the debtor of the assignment.

VI. Delivery and production, deadlines, delays and default

1. Supplies and services are destined for addresses within the contract territory (territory of the Federal Republic of Germany and the territory of the Member States of the European Union). feno is entitled to exclude supplies to specific areas of the contract territory.

2. feno is entitled to perform partial services or make partial supplies, provided this does not place an intolerable burden on the Customer. An intolerable burden exists if the partial performance or partial supply is not in the interests of the Customer within the meaning of § 323 V 1 BGB; the Customer shall demonstrate this to feno in a suitable way.

3. Notifications from feno about the estimated time of delivery or performance shall be considered as non-binding notifications. Deadlines for delivery or manufacture shall be considered as binding, subject to the following provisions of this Subsection and Subsection 4, if they have been expressly agreed as such. Compliance with agreed deadlines for deliveries or performance is subject to the receipt in good time of all documents and any necessary approvals and clearances — in particular of plans — to be supplied by the Customer, and also to the Customer fulfilling the agreed payment terms and other obligations. If these conditions are not met in good time, the deadlines will be extended to cover the period of delay; this does not apply if feno is responsible for the delay.

4. In the case of contracts with merchants, as defined by §§ 1 ff. HGB, which have made the contract for the running of their own business, any deadlines for delivery or performance are subject to deliveries being made to feno correctly and on time. In the event of feno not being supplied correctly and on time, this will be notified to the Customer immediately.

5. If feno fails to perform within the specified time, provided the Customer is able to substantiate the claim that it has suffered loss or damage as a result, the Customer may request compensation of 0.5% for each complete week of delay, up to a maximum of 5%, of the price of that part of the deliveries or performance which could not be taken into useful service because of the delay. Claims in excess of the above arising from delayed delivery or performance are excluded in all instances of delivery or performance not being at the proper time, including after the expiry of any additional period of time granted to feno. This does not apply if feno, its legal representatives or subcontractors have caused the delay deliberately or by gross negligence or if the damages claimed relate to injury to life, body or health. This is not connected to a change in the burden of proof to the detriment of the Customer. This does not affect the legal right to cancel the contract.

6. If dispatch, delivery or acceptance of the goods or services are delayed at the request of the Customer by more than one month after notification from feno that feno is ready to fulfill the contract, the Customer may be charged storage fees for every month commenced amounting to 0.5%, but not exceeding 5% in total of the price of the goods or services. The contracting partners reserve the right to produce evidence of higher or lower storage costs.

VII. Right to cancel or amend the contract

1. If the Customer breaches the secondary obligations shown in Section IV. Subsection 2, feno has the right to withdraw from the contract and reclaim the goods or services while the reservation of title remains in effect.

2. If deliveries from subsuppliers are missing or delayed, feno has the right to amend the contract or, if this is not economically viable, to withdraw from the contract.

VIII. Transfer of risk

Risk passes to the Customer, including where delivery is freight paid, when the consignment has been dispatched or collected. Deliveries will be insured by feno against normal transport risks at the express request and cost of the Customer.

IX. Acceptance

Deliveries which only show minor defects must be accepted by the Customer. Minor defects are those defined as such in § 323 V 2 BGB. Statutory warranty rights are otherwise unaffected.

X. Warranty

feno accepts liability for defects as follows:

1. Where subsequent performance is prescribed by law or by the contract, feno has the right to choose between the type of

subsequent performance (remedying of the defect(s) or replacement).

2. Warranty claims are subject to a limiting period of one year from the transfer of risk or acceptance, unless otherwise stipulated below. Statutory warranty periods apply to compensation claims arising from fatal or physical injury or injury to health, and compensation claims arising from the deliberate or grossly negligent conduct of feno, its legal representatives or subcontractors; or if feno, our legal representatives or subcontractors have fraudulently failed to disclose defects. The limiting periods specified in § 438 I No. 2 BGB and in § 634 a No. 1 BGB also remain in effect in instances covered by those clauses.

3. The Customer must notify feno in writing of obvious defects within 2 weeks of delivery. If the Customer fails to carry out this duty of notification, it will then lose its warranty rights, except in the case of compensation claims arising from fatal or physical injury or injury to health, or claims based on the deliberate or grossly negligent conduct of feno, its legal representatives or subcontractors. A defect is obvious if it is clear that it would also be apparent to an average, non-specialist customer on cursory inspection. The obligations under § 377 HGB are not affected as a result of the above.

4. In the case of contracts with merchants, as defined by §§ 1 ff. HGB, which have made the contract for the running of their own business, the Customer must give reasonable consideration to the ability of feno to obtain supplies itself in due time when determining the length of the period for subsequent performance.

5. The warranty does not extend to normal wear and tear, or damage after the transfer of risk or acceptance, resulting from incorrect or negligent handling, excessive strain or unsuitable equipment, or as a result of particular external factors which were not a condition of the contract. The warranty also does not extend to nonreproducible software errors. If the Customer or any third parties carry out improper modifications or maintenance work, the warranty does not cover these or any consequences of these.

6. Further claims against feno by the Customer are subject to the exclusion of liability in accordance with Section XI.

XI. Exclusion of liability

Compensation claims arising from the contract, quasi-contractual obligations or under the law are excluded. This does not, however, apply to compensation claims arising from fatal or physical injury or injury to health, or claims based on the deliberate or grossly negligent conduct of feno, its legal representatives or subcontractors. Additionally, the exclusion of liability does not apply where acceptance of liability is compulsory under the law, and in particular under the provisions of the German Product Liability Law, or on the basis of tort. The above terms are not associated with any change in the burden of proof to the detriment of the Customer.

XII. Industrial property rights and copyrights

1. If any third party has a justifiable claim against the Customer because of the infringement of an industrial property right or copyright (hereinafter referred to as Protective Rights) by products supplied by feno and used in accordance with the contract, feno is liable to the Customer as follows: a.) Subject to b), feno will, at its option and at its expense, either obtain a right to use the product, modify the product in such a way that the Protective Right is not infringed, or exchange the product. If feno is unable

to do so on acceptable terms, feno must take the product back and refund the purchase price.

b.) The above obligations on the part of feno apply only if the Customer notifies feno immediately in writing of claims made by third parties, does not recognize that there has been an infringement, and feno reserves the right to take any defensive measures and negotiate a settlement. If the Customer ceases to use the product to reduce any losses or on other significant grounds, the Customer is then obliged to inform the third party that ceasing to use the product does not imply recognition of an infringement of Protective Rights.

2. Claims by the Customer are excluded if the Customer is responsible for the infringement of Protective Rights.

3. Claims by the Customer are also excluded if the infringement of Protective Rights is caused by special stipulations of the Customer, by any utilization which we could not have anticipated, or as a result of the product being modified by the Customer or used with products not supplied by feno.

4. Further claims against feno by the Customer are subject to the exclusion of liability in accordance with Section XI.

XIII. Disruption to the contract basis, adaptation of the contract and cancellation

If any unforeseen events (e.g. natural disasters, mobilization, war, riot, strike, lockout or similar events) substantially alter the economic importance or content of the delivery, or substantially affect the business of feno, the contract will be adapted as appropriate in good faith. If this is not economically viable, we have the right to withdraw from the contract. Adaptation and cancellation of the contract are excluded if we are responsible for the obstruction.

XIV. Place of performance, place of jurisdiction, applicable law

1. The place of performance for all deliveries is the headquarters of feno.

2. In the case of contracts with merchants, as defined in §§ 1 ff. HGB, which have made the contract for the running of their own business, and in the case of contracts with legal persons under public law or public assets, the sole place of jurisdiction for all direct and indirect disputes arising from the contractual relationship between us and the Customer is the headquarters of feno (Oberhaching).

3. Contractual relationships are governed by German law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XV. Binding force of the contract

The contract remains binding in all other respects, even if individual points have no legal force. This does not apply if compliance with the terms of the contract would constitute unreasonable hardship for one of the parties. In the case of an ineffective provision or a loophole in the contract, the parties are

obliged to agree on an effective or reasonable provision that most closely corresponds to the purpose of the ineffective provision.

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