

**GENERAL TERMS AND CONDITIONS FOR SALE
OF
FLABEG FE GMBH
Furth im Wald
(Version: July 2014)**

I. General, Scope

Our deliveries and services shall be exclusively governed by the following General Terms and Conditions. These General Terms and Conditions shall also apply to all future business transactions relating to deliveries and services to the customer without the need for any further reference thereto. They shall also apply without any express reference thereto in future contracts with the customer. The customer's general terms and conditions shall not apply, irrespective of whether or not such general terms and conditions have been expressly rejected by us. These General Terms and Conditions shall also apply exclusively if we, having knowledge of other general terms and conditions, effect a delivery or service without reservation.

II. Offers and Conclusion of a Contract, Scope of Performance

1. Our offers to the customer are non-binding. The customer's order shall be considered a binding offer. This offer shall be accepted within four weeks at our sole discretion by sending an order acknowledgment or by the unconditional provision of the goods or services ordered. If an offer from us is expressly designated in writing as binding, we shall be bound by such offer for a period of two weeks from the date of the offer. Additional agreements, changes and performance data shall be binding only if expressly confirmed by us in writing.

2. We reserve the rights of ownership and intellectual property rights in cost estimates, drawings, plans and other documents; these shall be made accessible to third parties only with our prior written consent and shall be returned to us upon our request free of charge.

3. The documents related to our offer, in particular illustrations, drawings, indications of

weights and dimensions, performance and consumption data as well as technical data and descriptions contained in the relevant product information or advertising material are non-binding and shall not be deemed a warranty for products to be delivered.. In case of sale by samples these will only be provided of average kind and quality in accordance with the furnished samples and shall not be deemed a warranty for products to be delivered.

4. Guarantees, in particular guarantees as to condition or durability (Beschaffenhheits- oder Haltbarkeitsgarantien), shall be binding on us only in the scope and only to the extent in which they (i) are contained in a written offer or an order confirmation, (ii) are expressly designated as "guarantee" or "guarantee as to condition" (Beschaffenhheitsgarantie), and (iii) expressly stipulate the obligations for us resulting from such guarantee.

5. In case the goods are used outside of Germany the scope of delivery, including without limitation for devices related to safety at work and environmental protection, is determined by the agreements made and, in case of doubt, ambiguity or multiplicity, it is determined by the provisions applicable in Germany as applicable between German merchants. The customer shall be responsible for compliance with statutory and other regulations applicable at the point of use.

III. Prices, Terms of Payment, Late Payment

1. The prices agreed at the time the respective contract is concluded, in particular the prices indicated in the order acknowledgment, shall apply. If no price has been expressly determined or if the customer purchases goods at list prices, the prices applicable on the day of delivery according to our price list shall apply. Unless expressly agreed otherwise all prices shall be

Ex Works (Incoterms 2010) from our works or from another address indicated by us, exclusive of packaging and other ancillary costs. All prices shall be understood net plus applicable value added tax at the currently valid statutory rate. All public charges (including without limitation, taxes, fees, customs etc.) arising from the conclusion or the performance of the contract outside of Germany shall be borne by the customer.

2. We reserve the right to reasonably adjust our prices if, after conclusion of the contract, cost changes occur, in particular due to wage agreements, price increases by sub-suppliers or exchange rate fluctuations, which we are not responsible for.

3. Our invoices shall be paid, unless another payment date is specified in the invoice, within ten days after the earlier of the date of invoice and date of delivery without any deduction. If a payment is made after the payment date, statutory default interest will be charged while we reserve the right to assert further-reaching claims.

4. We shall be entitled to apply any payments received firstly to earlier receivables (including any charges and interest thereon), then to costs and interest of the principal receivable and finally to the principal receivable. The customer shall only be entitled to exercise a right of retention or set-off if its counterclaims are final (rechtskräftig), are not contested or have been acknowledged by us in writing. The exercise of any retention right shall also only be permitted to the extent that the counterclaim is based on the same contractual relationship.

IV. Deterioration of the Customer's Financial Situation

1. If, after conclusion of a contract, circumstances become known, whereupon the customer's performance of its contractual obligations is jeopardised in our opinion due to its financial situation (including without limitation, in case of suspension of payment, insolvency filing, distraint or execution measures, notice of a bill or protesting a cheque and returning of a

direct debit also towards or by third parties, or similar occurrences), we may, at our election, withhold the deliveries and services until prepayment of the purchase price or provision of satisfactory security. This also applies if due to default in payment by the customer, or reasonable doubts about its solvency or creditworthiness arise.

2. In the cases of Clause IV.1 we are also entitled to withhold deliveries and services until receipt of all payments for outstanding claims against the customer or provision of satisfactory security. For claims not yet due, including claims resulting from contracts already concluded, where we have to perform in advance, and claims without an inner natural or economic link to the relevant delivery, this shall only apply if we have a reasonable basis therefor.

3. If a current account relationship exists as part of the business relationship we are in the cases of Clause IV.1 also entitled to withhold deliveries and services until receipt of all payments from acknowledged balances or provision of appropriate security.

4. If the customer fails to provide prepayment or provision of security in accordance with Clause IV.1 within two weeks, we may rescind the affected contract at our election.

V. Delivery Periods, Delay in Delivery, Partial Deliveries

1. Delivery or service periods stated by us are non-binding unless a delivery period has expressly been agreed in writing as binding in the individual case. Expressly agreed delivery periods begin upon the dispatch of our order confirmation. The delivery period shall be deemed complied with if the goods have left the works or readiness for shipping has been announced by the time the delivery period expires.

2. Our adherence to delivery and service obligations is subject to the timely and correct performance of the customer's obligations. If advance payment is agreed or if the customer has to provide us with documents, permits or releases, the delivery period shall not begin until

these requirements are fulfilled. We reserve the right to plead the defence of lack of performance of the contract.

3. If agreed delivery or service periods are exceeded due to circumstances we are responsible for, the customer may rescind the contract by written notice after fruitless expiry of a reasonable time period set by it. In case of non-binding delivery periods, we shall not be in delay in delivery before fruitless expiry of a reasonable time period for delivery set by the customer. The customer may not set such time period earlier than four weeks after the non-binding delivery date. We shall only be in default after expiry of a reasonable time period set by the customer.

4. In case of force majeure and other unforeseeable, unusual events we are not responsible for, including without limitation business disruptions by fire, flood and similar events, breakdown of manufacturing facilities and machinery, delays in delivery or suspension of deliveries by our suppliers as well as disruptions of operations caused by shortage of raw materials, power or labour, strike, lockout, difficulties to obtain transport, disruptions of traffic, governmental interventions - to the extent these events prevent us from performing on time our delivery and service obligations - we are entitled to defer the delivery or performance for the duration of the impediment plus a reasonable additional start-up period. If the delivery or service is thereby delayed by more than three months, either party shall be entitled to rescind the contract with respect to the volumes affected by the impairment of delivery or service whereby any damage claims shall be expressly excluded.

5. Our liability for each case of delay in delivery is limited in accordance with the provisions in Clause IX.1 to 7.

6. If reasonably acceptable for the customer, we may effect partial deliveries and performances within the agreed delayed delivery and performance periods.

VI. Transfer of Risk, Transport and Packaging

1. Deliveries shall be made, unless expressly agreed otherwise in writing between us and the customer, Ex Works (Incoterms 2010) from our works or from another address indicated by us.

2. Risk shall pass to the customer at the latest upon delivery to the customer, the carrier or any other forwarding agent commissioned by the customer as set forth in Clause VI.1. This shall also apply in case of partial deliveries or if we, by way of exception, have assumed additional obligations such as freight charges, delivery or installation, unless delivery is effected by our own vehicles or means of transportation. Risk shall also pass to the customer if it is in default of acceptance (*Annahmeverzug*). The collection of the goods to be collected constitutes a material contractual obligation of the customer. At the customer's written request and sole cost we will insure the goods against theft, breakage, damage in transit, damage by fire or water, and other insurable risks.

3. If it is agreed with the customer that the goods are to be shipped by us, the method of shipping and the shipping route will be determined at our sole discretion by us, unless otherwise agreed in writing with the customer. Also, in this case, the provisions in Clause VI.2 shall apply.

4. We do not take back disposable packaging. Instead, we will, at the customer's request, name a third party which will take back the packaging at the customer's sole cost according to the German Packaging Ordinance, if applicable.

VII. Reservation of Title

1. We reserve title in goods delivered to the customer until full payment of the purchase price and of all other current or future claims against the customer we are entitled to under the business relationship. The inclusion of the claim for the purchase price against the customer into open accounts and the confirmation of a balance (*Anerkennung eines Saldos*) shall not affect this reservation of title.

2. In case of breach of contract by the customer, notably default in payment, we may - without prejudice to other (damage) claims - rescind the contract and recover the goods in which title is reserved (the "**Reserved Products**"). In case of default of payment, the prior setting of a time period is not required. For the purpose of recovering the Reserved Products we may enter the customer's business premises during normal business hours without prior notice. After recovery of the Reserved Products, we may upon prior notice realise the same in a reasonable manner; the realisation proceeds shall be applied to the liabilities of the customer less reasonable realisation costs.

3. The customer shall treat the Reserved Products with care, in particular it shall insure the same at its sole cost against damage by fire, water and theft sufficiently at replacement value. The customer hereby assigns its claims under the insurance contracts to us; we hereby accept the assignment. The customer shall carry out in due time and at its sole cost any necessary maintenance and inspections.

4. For the duration of the reservation of title the customer shall not pledge the Reserved Products or use the same as security. However, the customer may, subject to the following conditions, resell the Reserved Products in the course of its ordinary business activities, but in such case it hereby assigns to us all claims, including ancillary rights and with priority over the remainder of the customer's claims, equal to the final invoice amount (including value added tax and other charges) accruing to it against its customers or third parties from the resale, regardless of whether the Reserved Products have been resold without or after processing.

The customer shall not sell the Reserved Products to customers that have excluded or limited the assignment of payment claims against them. If the Reserved Products have been reprocessed together with other items not belonging to the customer, the assignment shall be effected only in the proportion of the co-title shares in the goods reprocessed pursuant to Clause VII.6. After assignment of the claims, the customer shall retain the right to collect the claims. Our right to collect the claims by ourselves shall not be affected thereby. However, we shall not collect the claims as long as the customer fulfils its payment obligations from the proceedings taken in, is not in default of payment and notably has not filed an application for the opening of insolvency proceedings and has not suspended its payments, nor taken such other actions described in Clause IV.1. If any of this is the case, we may request the customer to disclose the assigned claims and their respective debtors, to furnish all data necessary for collection, to hand over to it all documents pertaining thereto and to inform the debtors of the assignment. If such a case occurs, the customer's right to collect the claims on our behalf is extinguished. To the extent that a current account relationship exists between the customer and its customers pursuant to Section 355 of the German Commercial Code (*Handelsgesetzbuch*), the claim assigned to us in advance by the customer shall also relate to the acknowledged balance, as well as to the balance surplus existing from the closing balance in the case of the customer's insolvency.

5. The customer shall notify us in writing without undue delay of all seizures, attachments and other interference by third parties with respect to the Reserved Products. Moreover, the customer shall notify such third parties of the reservation of title. To the extent the third party is unable to reimburse us for the court and out-of-court costs of a legal action pursuant to Section 771 of the German Procedural Code (*Zivilprozessordnung*), the customer shall be liable for the loss thus incurred to us.

6. Any processing (*Verarbeitung*) or reworking (*Umbildung*) by the customer of the Reserved Products shall always be performed for us. If the Reserved Products are processed or reworked with other items not belonging to us, we shall acquire co-title in the new thing in the proportion of the value of the Reserved Products (final invoice amount - *Fakturaendbetrag*, including value added tax and other charges) to the other items that are processed or reworked at the time of such processing or reworking. In all other respects, the same provisions shall apply for the new thing thus created as for the Reserved Products. If the Reserved Products are inseparably commingled (*vermischt*) or combined (*verbunden*) with other items not belonging to us, we shall acquire joint title in the new thing in the proportion of the value of the Reserved Products (final invoice amount, including value added tax and other charges) to the other commingled or combined items at the time of commingling or combining. If the commingling or combining takes place in such a way that the thing of the customer is considered to be the principal thing, the customer shall transfer co-title to us on a pro rata basis. The customer shall keep the sole title or co-title thus created in custody for us. As security for our claims against the customer, the latter shall also assign to us the claims accruing against third parties by the combining of the Reserved Products with a real estate property.

7. At the customer's request we will release securities we are entitled to, to the extent the realisable value of such securities exceeds our secured claims against the customer by more than 10%; we may select the securities to be released at our sole discretion.

VIII. Customer's Claims in the Event of Defects

1. The customer shall notify us without undue delay, but at the latest within one week of delivery of the goods, in writing of obvious defects (e.g. defects of quality or title, wrong delivery or deviations in quantity); hidden defects shall be notified to us in writing without undue delay, but at the latest within one week of

being discovered or discoverable with reasonable prudence. The customer's claims for defects shall be forfeited if a notice of defect has not been made in time or properly, unless a defect has been fraudulently concealed. The acceptance of goods may not be refused for defects that are not of a material nature.

2. Without our prior written consent, we will not bear the costs caused by the customer for examination of possible defects. For an effective handling of claims for defects, we will sort out defective goods from an affected delivery, unless we instruct the customer otherwise in writing. The customer will not dispose of defective goods without our prior written consent. Upon our request, the customer shall send defective goods to us for examination.

3. The customer shall not be entitled to claims for defects for used goods or goods that have been agreed to be of a lower quality category. The same shall apply in case of deviations, in particular deviations of dimensions, thicknesses, weight, performance data or colour nuances, which are within the tolerances customary in the industry, as well as in case of immaterial reduction of the value or usability of the goods.

4. In case of defects, the customer's sole and exclusive remedy and our sole and entire liability is, at our election, rectification (*Nachbesserung*) or replacement delivery (*Nachlieferung*), using new or refurbished parts or products. Rectification or replacement delivery (subsequent performance - *Nacherfüllung*) shall be made without acknowledgement of a legal obligation (*Anerkenntnis*). For repaired or replaced goods the remainder of the original limitation period shall run from the date of return of the repaired or replaced goods. For the purposes of this Clause VIII.4, "refurbished" means a product or part that has been substantially returned to its original specifications. All other remedies are hereby expressly excluded.

5. If subsequent performance fails, the customer may rescind the affected contract (*Rücktritt*), whereas the right to reasonably reduce the purchase price of the affected contract (*Minderung*) is expressly excluded. Rectification

is considered as having failed after the third attempt, unless the nature of the goods or other circumstances suggest otherwise.

6. Claims of the customer for expenditure required for the purpose of subsequent performance, notably the costs of transport, journeys, labour and material, are expressly excluded to the extent that the expenditure is increased as a result of the goods being brought to a place other than the agreed place of delivery; we may charge such increased costs to the customer. Also excluded are costs for dismounting and installing (*Aus- und Einbaukosten*) defective goods; such costs may be claimed by the customer as claims for damages subject to the provisions of Clause VIII.1, Clause IX. and Clause X.

7. If the customer wrongly asserts claims for defects (e.g. the goods were not defective), we may charge to the customer reasonable costs incurred; the same shall apply if we incorrectly grant claims for defects without being obliged to. In case of defects that are not of a material nature claims for defects are also considered to be wrongly asserted; in case a claim is disproportionately asserted (e.g. all goods are rejected even though only a part is affected), and costs will be charged to the customer on a pro-rata basis.

8. Our liability for any damage the customer may have suffered due to defects of goods delivered by us or for any futile expenses shall be subject to the provisions in Clause VIII.1, Clause IX. and Clause X.

9. EXCEPT AS EXPRESSLY SET FORTH IN THIS CLAUSE VIII, WE MAKE NO OTHER EXPRESS OR IMPLIED WARRANTIES TO THE EXTENT PERMITTED BY LAW AND SPECIFICALLY DISCLAIM AND EXCLUDE ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IF SUCH DISCLAIMER OF ANY IMPLIED WARRANTY IS NOT PERMITTED BY LAW, THE DURATION OF ANY SUCH

IMPLIED WARRANTIES IS LIMITED TO THE DURATIONS SET FORTH IN CLAUSE X.

IX. Liability

1. In all cases, our company shall only be liable for damages or futile expenses - irrespective of the legal basis - if such damages or futile expenses were caused by a) culpable breach of a material contractual obligation by us or b) gross negligent (*grob fahrlässig*) or intentional breach of an obligation by us. Contrary to Clause IX.1.a) we are liable for damages or futile expenses caused by any advice and/or information not subject to separate remuneration only in case of intentional or gross negligent breach of obligations, and only if such breach of obligations constitutes a defect of the goods delivered by us.

2. If we are liable under Clause IX.1.a) for breach of a material contractual obligation not caused by gross negligence or intent, our liability for damages shall be limited to the damage which is typical and foreseeable. The above limitation of liability set out in sentence 1 above equally applies to damages caused by gross negligence of our employees or agents, who are not officers or executives of our company.

3. In the cases of Clause IX.2 our liability shall be limited to an amount of Euro 1.5 million per damaging event. We will conclude and maintain insurance coverage with a corresponding contract amount (at least Euro 1.5 million per damaging event).

4. IN THE CASES OF CLAUSE IX.2 WE ARE NOT LIABLE (WHETHER IN CONTRACT, WARRANTY, TORT, OR OTHERWISE), FOR SPECIAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES, INCLUDING LOSS OF OPPORTUNITY, LOSS OF REPUTATION OR GOODWILL, LOSS OF PRODUCTION OR OPERATIONAL TIME, LOSS OF ANTICIPATED REVENUE, PROFITS OR SAVINGS, OR ECONOMIC LOSS, EVEN IF WE HAVE BEEN ADVISED OR WERE

OTHERWISE AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

5. The limitations of liability set out in Clause IX.1 to 4 above shall not apply in case of mandatory liability under the provisions of the Product Liability Act (*Produkthaftungsgesetz*) or if claims are asserted against us for injury of life or limb (*Verletzung von Leben, Körper oder Gesundheit*). If the goods delivered by us lack a guaranteed quality, we are only liable for such damages covered by the purpose of such guarantee.

6. Any further liability for damages than that set out in Clause IX.1 to 5 are expressly excluded, irrespective of the legal nature of the claim asserted.

7. The limitations of liability for damages set out in this Clause IX. shall also apply to the personal liability for damages of our employees, staff, agents, and assistants.

X. Limitation Periods

1. The limitation period for claims by the customer for defects of goods delivered by us or services performed in breach of our obligations - including damage claims and claims for reimbursement of futile expenses – shall be one year after the limitation period begins to run by law (*gesetzlicher Verjährungsbeginn*), unless otherwise provided in Clause X.2 to 6 below.

2. The limitation period for the customer's claims relating to any new goods delivered by us that are used in structures in accordance with their regular purpose of use and having caused the defectiveness of such structures, shall be five years after the limitation period begins to run by law. Contrary to sentence 1 above the limitation period shall be two years if the customer used the goods delivered by us for the performance of contracts which fully incorporate part B of the Contracting Rules for Award of Public Works Contracts (*Verdingungsordnung für Bauleistungen*). The limitation period according to sentence 2 above shall begin not earlier than two months after the date the customer satisfied its contractual partner's claims resulting from defects in structures caused by goods delivered

by us, unless the customer could have successfully plead the statute of limitations towards its contractual partner. The customer's claims against us for defects of goods delivered by us will become time-barred in any case as soon as the claims of our customer's contractual partner against our customer for defects of goods delivered to our customer have become time-barred, but at the latest five years after we have delivered the goods to our customer.

3. If we have provided advice and/or information without separate remuneration in breach of duty and such advice or information was unrelated to the delivery of goods or such advice or information does not constitute a defect of the goods delivered by us, the limitation period for claims against us based on this shall be one year after the limitation period begins to run by law. The limitation period for any claims by the customer against us for breach of contractual, pre-contractual or statutory obligations that do not constitute a defect of the goods delivered or to be delivered by us shall be two years after the limitation period begins to run by law. If such breach of duty set out above constitutes a defect of the goods delivered by us in connection with such advice or information, the relevant provisions in Clause X.1, Clause X.2 and Clause X.4 shall apply for the limitation of any claims based thereupon.

4. The provisions in Clause X.1 to 3 shall not apply to the limitation of claims arising for injury of life or limb or claims under the Product Liability Act. These provisions shall also not apply to the limitation of the customer's claims based on defects of the goods delivered by us that we have fraudulently concealed or if we have breached an obligation with intent or - unless employees or agents are concerned, who are not officers or executives - with gross negligence. In the cases set out in this Clause X.4 the statutory limitation periods shall apply.

XI. Place of Jurisdiction, Governing Law

1. Exclusive place of jurisdiction for any claims between us and merchants (*Kaufmann*), legal persons under public law or special funds under public law shall be Munich, Germany, unless

otherwise provided by mandatory law. We are, however, also entitled, at our election, to sue a customer at its place of general jurisdiction.

2. The legal relationship between us and the customer or us and third parties shall be exclusively governed by the laws of the Federal Republic of Germany, as it applies between German merchants. The application of the provisions on Contracts for the International Sales of Goods (CISG - Vienna UN Convention) shall be expressly excluded.

XII. Security Information

In case of a visit to its works or workings at its factory premises, the customer shall inform us about the general security regulations and provide all required protective clothing and other accessories and aids.

XIII. Final Provisions

1. Set-off and exercise of a right of retention by the customer due to contested counterclaims or counterclaims which are not final (*rechtskräftig*) are expressly excluded. The exercise of any retention right by the customer is also excluded to the extent that the counterclaims are not based on the same contractual relationship.

2. Without our prior written consent, the customer shall not, in part or in whole, assign its rights and obligations. We may assign our rights and obligations, including but not limited to affiliated companies within the meaning of Section 15 of the German Stock Corporation Act (*Aktiengesetz*).

3. Changes or amendments to or cancellation of these General Terms and Conditions require written form signed by us containing express language of change, amendment or cancellation in order to be effective. This also applies to the cancellation of this written form requirement.

4. We keep customer data in connection with our mutual business relation in compliance with the Federal Data Protection Act (*Bundesdatenschutzgesetz*).

5. Should any of the provisions of these General Terms and Conditions be invalid or excluded by

a special agreement, the validity of the remaining provisions remains unaffected. We shall be entitled to replace invalid provisions to the extent permitted by law with provisions that most closely reflect the intended purpose.