

FRXSH GmbH

General terms and conditions of business, Edition 1, 01.2023

1 Introduction and scope

These general terms and conditions of business (GTCs) of FRXSH GmbH with its principal office in Schallstadt near Freiburg im Breisgau, Germany (hereinafter "FRXSH") shall apply to all products and services (hereinafter "Products") of FRXSH. They shall regulate the underlying conditions, services, rights and obligations for all orders placed with FRXSH by its customers and agreements concluded in this regard. They shall also apply to all future transactions, even if no express reference is made to them. This shall also apply if the customer order contains or refers to deviating terms; such deviating terms and conditions are expressly rejected, regardless of the type and time of receipt, and shall not apply.

These conditions shall apply only in relation to entrepreneurs. An entrepreneur means a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of their or its trade, business or profession.

The version of these GTCs in force at the time of the conclusion of the agreement shall apply. Amendments to this agreement by individual contractual arrangement shall be valid in any form. Otherwise, contractual amendments must be in written form; this also applies to the amendment of this written form agreement.

2 Offer of FRXSH

The offers of FRXSH are non-binding and free of obligations. The agreement shall come into effect with the order confirmation of FRXSH. If no confirmation is given in written or text form, the order shall be deemed to have been accepted with the handover of the goods to the customer or the respective freight carrier. All information on FRXSH products contained on the FRXSH website, the FRXSH online store and FRXSH social media channels or in FRXSH brochures, catalogues or illustrations, for example, is made without guarantee and shall not present any guarantee of characteristics of the product. Only the specifications valid at the time of performance shall apply.

Specifications, images, videos and texts on the offers of FRXSH are provided by FRXSH and shall be liable to the exclusive right of use of FRXSH. Where they contain personalised offers, these documents and data may only be made available to third parties where expressly agreed by our prior consent in writing.

FRXSH shall not be liable for the contents of external websites, online stores and social media channels or linked websites, online stores and social media channels, brochures, catalogues, illustrations or other third-party information.

3 Conclusion of agreement

The offers of FRXSH represent a non-binding invitation to submit offers to FRXSH for the purchase of products. Customers submit a legally binding offer to conclude an agreement by placing an order and simultaneously acknowledge these general terms and conditions.

A confirmation of receipt of the incoming order in the web store, for instance, shall not constitute a binding acceptance of this offer on the part of FRXSH. Agreements shall only be concluded by our order confirmation (in writing or by email), the contents of which shall prevail. FRXSH shall conclude the agreement under the express reservation of the availability of the products ordered. In the event of unavailability, FRXSH may withdraw from the agreement. FRXSH is obliged to immediately notify the customer about the unavailability and immediately reimburse any consideration made by the customer.

4 Prices

All prices for FRXSH products apply ex works in Euro (EUR). Where value-added tax applies, prices are quoted including the currently applicable rate of statutory value-added tax. Shipping and handling costs (packaging, insurance), customs duties as well as the cost of monetary transactions shall be listed separately according to their occurrence and will be calculated separately. Advanced services such as product training for customers or FRXSH rental equipment are not included in the sales price.

Price adjustments may be made by FRXSH at any time and without prior notice, including in a permanent supply relationship. The date of the legally valid conclusion of the agreement shall apply for the determination of the contractually valid prices.

5 Payment

Payment shall be made directly to FRXSH or to the bank accounts shown on the invoice. Payment shall only be made using the means of payment specified on the invoice or in the FRXSH online store. These include cash payments, bank transfer, credit or debit card and PayPal with encrypted data transfer. Further payment methods and means shall only be accepted upon special written agreement.

The invoices of FRXSH shall be due immediately for payment in advance without deduction. Any deviating provisions for payment terms shall be expressly stated in writing by FRXSH on the invoice.

The customer shall be in default if the customer fails to make payment after expiry of 30 days after delivery or date of invoice. Without prejudice to the aforesaid, the customer shall also be in default after reminder letter. In the event of default of payment, FRXSH shall be entitled to set a period of grace of 20 days and, in the event of further failure to pay in full within this grace period, to withdraw from the agreement immediately and to demand the return of the goods already delivered. In addition, FRXSH shall be entitled to demand a fee of 40 Euro in the event of default of payment. This shall not affect claims for any additional reminder costs.

6 Delivery

Deliveries by FRXSH are made by free carrier (FCA – Incoterms[®] 2020). If an explicit delivery deadline has not been agreed, a delivery deadline of up to 6 weeks shall apply. Should it not be possible to meet the agreed or aforementioned delivery deadline, customers shall be entitled to withdraw from the order after expiry of a reasonable grace period set by them in writing with an explicit threat of refusal. A period of at least four weeks shall be deemed reasonable.

The assertion of claims for damages instead of performance shall also require the expiry of a reasonable grace period with an explicit threat of refusal. FRXSH shall be liable in accordance with legal regulations, provided that the delay in delivery is based on an intentional or grossly negligent breach of contract for which FRXSH is responsible. In other cases of delivery delays due to FRXSH's negligence, the liability for damages besides the performance will be limited to 10 % of the value of the delivery. If the customer demands damages in lieu of performance owing to delivery delays negligently caused by FRXSH, such claim is limited to the predictable loss or damage typical for the agreement.

Events involving force majeure such as war, riots, natural catastrophes, traffic disruptions, raw material shortage, epidemics, pandemics, strike and lockout, failure in the energy supply, destruction of FRXSH's business or of important operative parts and other comparable hindrances outside FRXSH's control which render deliveries impossible will entitle FRXSH to postpone deliveries during the disruption plus an appropriate period allowed for startup. This also applies if such circumstances affect subcontractors required to fulfil the agreement. If the customer is immediately notified that the delivery cannot or cannot fully be carried out for the aforementioned reasons, the customer's withdrawal and claims for damages shall be excluded. If these circumstances persist for periods exceeding six months, both parties hereto shall have the right to withdraw from the agreement. Such a withdrawal can be declared only as long as the force majeure event lasts and up to two weeks afterwards. The parties agree that a pandemic or epidemic can be considered an event of force majeure even if the existing risk was already known at the time the agreement was concluded, however the specific consequences such as travel restrictions, supply bottlenecks or (partial) operative closures have not yet taken on a concrete form.

Partial deliveries shall be permitted at the expense of FRXSH if the partial delivery is reasonable for the customer, taking into account the customer's legitimate interests.

7 Repairs

A FRXSH service centre is available for repair services of FRXSH devices independent of the statutory liability for defects or warranty. If necessary, customers can access this service through FRXSH (phone +49 7664 50894 00, E-Mail office@FRXSH.de).

After prior registration, devices must be sent to the FRXSH service centre in a clean condition, with any used processing accessories (e.g. insert tool, cover, cup etc.) in the original packaging to the extent possible and with the sender's details. In case returned devices are excessively dirty, the cost of cleaning incurred by FRXSH shall be additionally charged to the customer. Customers shall bear the cost of shipping. The customer shall be solely liable in case of damage caused by insufficient packaging.

As a rule, FRXSH shall issue an order form that describes the estimated repair work and which can be sent to the customer by email. At the customer's request, the contractor shall also note on the order form the prices that are expected to be applied in executing the order.

In the event that no completion deadline is agreed for the completion of a repair order, a deadline of at least 6 weeks shall apply. This deadline shall be extended accordingly if, over the course of the repair, further work becomes apparent or additional materials have to be procured.

The customer is obliged to accept the repaired object once they are notified by FRXSH of completion. Acceptance shall take place at the premises of the FRXSH service centre unless expressly agreed otherwise. If the return consignment of the repair object has been agreed with the customer, the delivery item shall be deemed accepted if, within two weeks after delivery, the customer does not report defects in writing or in text form, which would constitute refusal of acceptance.

The period of limitation for repair service claims shall be one year from acceptance. This period shall not apply to claims for damages by the customer arising from injury to life, body or health or from intentional or grossly negligent breaches of duty by FRXSH or its vicarious agents, which shall be statute-barred in accordance with the statutory provisions.

If required and available, a rental replacement device can be provided to the customer for a fee. Subject to other agreements, the relevant rental conditions on our website and the applicable list prices shall apply.

8 Liability for defects

For defects in goods FRXSH shall initially and at its discretion provide warranty over the course of supplementary performance by remedying the defect or by delivering faultless goods (substitute delivery). Costs arising from this, particularly labour, travel, material and transport costs shall be borne by FRXSH in relation to the place of performance of the supplementary performance. FRXSH shall only cover installation and removal expenses if the prerequisites of a fault-based liability for damages are given. The customer shall not be entitled to a free replacement device throughout the duration of the repair.

If FRXSH is unwilling or unable to remedy the defect or provide substitute delivery, or if it is delayed beyond reasonable periods for reasons for which FRXSH is liable, or if the remedying of the defect /

substitute delivery fails in any other manner, the customer at their discretion shall be entitled to withdraw from the agreement or to demand an appropriate reduction of the purchase price. The customer has no right to withdrawal in the event of only a minor breach of contract, particularly in the event of only minor defects. Failure to remedy defects or failed replacement delivery is only given once a subsequent delivery attempt has failed for the second time at the earliest.

If the customer asserts claims for damages due to defects, the liability regulations under clause 11 shall apply.

Claims for damages owing to defects are statute-barred one year after the passing of risk for the delivery item. This period shall not apply to claims for damages by the customer arising from injury to life, body or health or from intentional or grossly negligent breaches of duty by FRXSH or its vicarious agents, which shall be statute-barred in accordance with the statutory provisions.

9 Guarantee of durability

For sales of goods, FRXSH shall usually provide warranty according to the statutory liability for defects in accordance with the above provisions under clause 8. The assumption of a guarantee of durability that goes beyond the statutory liability for defects shall require an explicit agreement and is agreed only against a surcharge.

If, based on an express agreement and besides the statutory defect liability claims for devices, FRXSH provides a guarantee, the following shall apply:

The statutory liability for defects that applies to section 8 above shall remain unaffected by such commitments.

If the commitment in question refers to an electric appliance, this implies, unless otherwise agreed, the assurance that the device is fundamentally suitable to work properly under normal conditions during the stated period of time. Claims arising from the assurance of this minimum term of function shall assume both proper and careful use as well as appropriate, professional and sufficiently frequent maintenance unless the customer can prove that the defect would also have occurred with proper maintenance. The warranty expressly excludes parts subject to wear and tear or in relation to the consistent quality of the results achievable with the device.

If the customer identifies a defect that may justify a claim under the above provision, they must notify FRXSH immediately upon discovery. Clause 10 section 1 applies accordingly. Potential claims resulting from this must be asserted in writing within 3 months of discovery of the defect, failing this the claims shall expire. In the event of eligible claims, FRXSH shall be entitled at its discretion to repair the contractual item, to carry out an exchange or to offer the customer a partial refund. In the event of repairs or exchanges, FRXSH shall not assume any additional costs such as transport or installation or removal. In the event that FRXSH decides on a partial refund of the purchase price, this shall amount to the proportion of the purchase

price that corresponds to the ratio of the difference between the actual period of function and the promised minimum period of function to the promised minimum period of function (Example: Assured shelf life of 2 years; achieved shelf life of 1.5 years; partial refund: 25% of the purchase price). Any claims arising from a promise or guarantee in the aforementioned sense shall be statute-barred one year after the discovery of the defect.

A warranty in the aforementioned sense shall not cover work that is not carried out by FRXSH or persons authorised by FRXSH, as well as malfunctions or defects due to damage caused by the elements, moisture damage, shock or fall damage, natural wear and tear, in particular on wearing parts, software problems, user errors, damage caused by external influences, improper intervention in or modifications of the product.

10 Obligatory inspection and claims, complaint process

Customers shall inspect the delivered FRXSH product immediately upon delivery for accuracy, completeness, functionality and intactness and shall report obvious defects in writing within 5 working days (Saturdays shall not count as working days) of delivery with a sufficiently precise description of defects. In case of defects discovered later which were not immediately recognisable ("hidden defects"), which do not fall under the warranty exclusion, FRXSH must be notified in writing without delay, at the latest within 3 working days after detection, with a sufficiently precise description of defects. Any defects reported late by the customer shall be deemed to have been approved by the customer. Any such defects reported late shall no longer be recognised by FRXSH.

Customers shall return or ship the defective product at their own expense and risk to the service centre designated by FRXSH. If the complaint is found to be justified, an appropriate amount of the shipping costs will be refunded. The products shall be delivered or sent with any accessories in the original packaging together with the sales receipt/delivery note. If the original packaging is missing, the product must be packed ready for transport. If it is determined that a product sent in is not covered by the warranty (or any agreed guarantee), for example because there are reasons for exclusion or the warranty period has expired, a quotation for the expected repair costs shall be generated automatically which can be charged to the customer. If customers opt for a repair, they will not be charged for the quotation. If customers do not respond to the quotation within an appropriate time limit, the product will be returned unrepaid at the customer's expense and risk.

Products returned to FRXSH that were sent to an incorrect address, whose transport packaging was inadequate and which was damaged as a result, which did not show a defect or in which the accessories were missing, can be returned by FRXSH at the customer's expense and risk. In such cases, FRXSH shall be entitled to claim compensation for expenses.

11 Liability

For the customer's claims for damages for whatever legal reason, in particular arising from defects, infringement of duty under obligation or during contract negotiations or from tort, we shall be liable in the event of wilful intent or from gross negligence under the provisions of the law. The same shall apply if our representatives or vicarious agents are found culpable of wilful intent or gross negligence. Any further liability is ruled out, unless mandatory liability attaches owing to the culpable infringement of essential contractual duties. Essential contractual obligations are those which the contract must provide in view of its content and purpose or the fulfilment of which is deemed to be necessary for proper execution of the contract and on the fulfilment of which the customer regularly relies and may rely. The claim for damages arising from the infringement of essential contractual duties is, however, limited to the predictable loss typical for the agreement. The same limitation shall apply in the event of gross negligence.

The above liability limitations do not apply under the mandatory liability as defined in product liability law. Liability limitations shall furthermore not apply in case of culpable injury to life, body or health.

With respect to liability for default, reference is made to the provisions under clause 6.

The customer's claims for damages owing to defects are statute-barred one year after the passing of risk for the delivery item. This period shall not apply to claims for damages by the customer arising from injury to life, body or health or from intentional or grossly negligent breaches of duty by FRXSH or its vicarious agents, which shall be statute-barred in accordance with the statutory provisions.

12 Reservation of title

Ordered and/or delivered products shall remain the property of FRXSH until the customer has paid in full.

If the customer fails to render services owed, or in particular if the customer is in default of payment, FRXSH shall have the right to demand the surrender of the delivery item if the customer has previously been set a period allowed for payment without success. The request for surrender shall simultaneously constitute withdrawal from the agreement. The customer is obliged to immediately surrender the item.

If certain measures are required in the importing country for deliveries abroad in order to achieve the effectiveness of the reservation of title specified above or any other rights due to us there, then the customer must notify FRXSH accordingly and undertake such measures at their own cost. FRXSH shall, for instance, be entitled to make a corresponding entry in the retention of title register at the customer's domicile or in similar registers. If legislation in the importing country does not allow for a reservation of title, but allows the seller to retain other rights to the security object, FRXSH may

exercise all rights of this kind. If this does not provide security amounting to the same level of claims against the customer, then the customer is obliged to provide FRXSH with other securities for the goods supplied or different securities and to do so at their own expense.

The customer may sell the goods, to which FRXSH shall retain ownership, within the scope of the ordinary course of business unless the customer is in default of payment or has discontinued payments. Sales abroad shall only be permitted with our prior written consent. If the customer sells goods under reservation of title, the customer agrees with immediate effect to assign to us all claims accruing to it against its customers from the sale including all ancillary or secondary rights, securities and reservations of title until all of our claims are settled in full. FRXSH may request that the customer give notice to its customers of the assignment and that the customer gives to FRXSH all items of information and documents required for collection. The customer may, however, collect the claims assigned to FRXSH as long as the customer is not in default of payment or has discontinued payments.

Pledging, transfer of security, processing or transformation is not permitted prior to transfer of ownership without the express written consent of FRXSH.

13 Data protection

The data and information collected by FRXSH in the scope of the conclusion of the agreement shall be processed and used exclusively for the purpose of processing the order and fulfilling the obligations arising from the agreement. Within the scope of this agreement fulfilment, the data necessary for the performance of the agreement may also be passed on to commissioned third-party service partners (e.g. logistics partners) of FRXSH.

For further information on the rights of customers with regard to their data, please refer to the FRXSH data protection declaration (www.frxsh.com). FRXSH complies with the principles of the European Data Protection Regulation (EU-GDPR) in the processing of customers' personal data.

14 Final provisions

14.1 Verbal agreements

Only the terms and conditions stipulated in writing in the original of the purchase agreement shall be deemed as validly agreed upon by FRXSH and the customer. By concluding this agreement, the customer confirms that no verbal ancillary agreements have been concluded.

14.2 Place of performance

The place of performance for all obligations arising from the contractual relationship shall be Schallstadt near Freiburg im Breisgau (Germany). The place of performance for repair services and potential supplementary performances - if differing - shall be the respective FRXSH service centre.

14.3 Assignment of claims

The customer may not transfer their contractual rights or parts of these to third parties without written consent.

14.4 Severability clause

If individual provisions of these general terms and conditions are or become ineffective, the remaining provisions of this agreement or these general terms and conditions shall remain in full force and effect.

14.5 Applicable law and jurisdiction

Substantive German law shall apply to the entire legal relationship between FRXSH and the customer. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) and, to the extent permitted, conflict of law rules are excluded.

If the customer is a registered merchant, a legal entity under public law or special asset under public law, the exclusive area of jurisdiction for any dispute concerning this contract shall be Freiburg im Breisgau, Germany. This shall also apply if the customer has no general area of jurisdiction in Germany or if the place of residence or habitual residence is not known at the time legal action is taken. However, FRXSH shall also be entitled to appeal to the court of jurisdiction at the place of residence or domicile of the customer. Mandatory legal provisions of the court of jurisdiction are reserved.

Current as of January 2023