

as of May 2024

FAM Minerals & Mining GmbH

General Terms and Conditions for the Supply of Products and Services

I. Scope

These General Terms and Conditions for the Supply of Products and Services (hereinafter "**GTC**") shall apply to all business relations between FAM Minerals & Mining GmbH (hereinafter to as "**FAM**") and FAM's customers (hereinafter referred to as "**Customer**").

II. General

1. FAM delivers products, including but not limited to opencast mining systems, stockyard systems, facilities for mineral processing, port technology, conveying systems, and loading systems, machines, parts of the aforesaid and spare parts (any and all of these hereinafter "**Product**"). For purposes of these GTC "**Engineering**" shall refer to all services regarding the consulting, planning, designing, engineering and construction of the Product as well as any consultancy and inspection services, "**Manufacturing**" shall refer to all services regarding the manufacturing of the Product including the manufacturing and/or delivery of parts and spare parts, "**Assembly**" shall refer to all services regarding the assembly and erection of Products, "**Commissioning**" shall refer to all services regarding the commissioning, installation, implementation and introduction of the Product as well as the consultancy to such services if performed by Customer or a third party, "**Maintenance**" shall refer to all services regarding the maintenance and the repair of a Product. Any and each Engineering, Manufacturing, Assembly, Commissioning and Maintenance performed by FAM shall be referred to as "**Service**" or "**Services**".
2. All contracts (including but not limited to purchase and confirmation orders, agreements, amendments and/or settlements) between FAM and the Customer regarding Products and Services (the contractual Products and Services together and separately hereinafter referred to as "**Delivery Item**" or "**Delivery Items**") shall be subject to these GTC. To become valid, any deviations from these GTC shall require FAM's express written confirmation. Unless expressly recognized by FAM, any deviating, conflicting or additional general terms and conditions of business of Customer - even if known - shall not be considered part of the contract and shall therefore not apply.
3. Any offers or order from the Customer shall be submitted with binding content and no contract shall be concluded without written consent by FAM.
4. The Delivery Items are listed exhaustively in the contract and – if applicable – any amendments thereto. Reasonable technical changes or improvements of the Delivery Items by FAM are permissible without consent of Customer.
5. Unless agreed otherwise in writing, FAM
 - a) delivers in accordance with the technical standards, laws and regulations applicable in Germany,
 - b) shall not be obligated to insure the Delivery Items, and
 - c) does not assume any guarantees whatsoever.
6. FAM reserves its rights of title and copyrights to all Delivery Item.

III. Prices

1. All prices are net prices in EURO. Value-added tax (if applicable) at the relevant statutory percentage will be added.
2. Unless the remuneration for Services has been expressly agreed otherwise, FAM shall receive time remuneration for Services according to the usual hourly rates of FAM applicable at the time of the performance of the Services.
3. Unless otherwise agreed, fixed prices do neither include Assembly nor Commissioning nor Maintenance of the Delivery Items.

4. In case that a software in connection with or embedded in Products is being provided by FAM (hereinafter "**Software**"), the price does neither include any modifications, customisations, or alterations of the Software, nor any works necessary to connect the Software with any machines, software and/or other products or operating systems of Customer unless expressly agreed otherwise in writing.

IV. Terms of Payment

1. Payment shall be made without any deduction and exclusively by bank transfer to a bank account of FAM denominated in EURO.
2. Payment is due immediately upon receipt of the invoice unless otherwise agreed in writing. The Customer defaults if he does not pay within fourteen (14) days after the date of the invoice. If a different payment date has been agreed, the Customer defaults if the payment has not been credited to a FAM bank account by this date.
3. The invoice is sent electronically. For this purpose, the Customer shall provide FAM with the email address to which the invoice shall be sent to at the time of the conclusion of the contract, but at the latest immediately after being requested by FAM. If the Customer does not provide a specific email address, FAM can use any of Customer's email addresses known to FAM.
4. If it is exceptionally not possible to send the invoice electronically and FAM therefore sends the invoice by fax, it is assumed that the Customer received the invoice on the date and time stated in the delivery report.
5. If it is exceptionally not possible to send the invoice electronically or to send it by fax and FAM therefore posts the invoice, it is assumed that the Customer received the invoice as follows:
 - a) in case of a domestic dispatch: three days after the invoice has been posted,
 - b) in case of a dispatch to European countries: five days after the invoice has been sent;
 - c) in case of an international dispatch: one week after the invoice has been posted.It is assumed that FAM sent the invoice on the day the invoice was issued (invoice date).
6. In deviation from para. 2 instalments are only possible if expressly agreed upon in writing.
7. The Customer can only offset payment claims from FAM with claims that are undisputed or that have been established as legally and finally binding.
8. The Customer may only exercise a right of retention against payment claims from FAM if the claim on which the right of retention is based is undisputed or has been established as legally and finally binding.
9. In the case of default in payment FAM shall be entitled to charge the Customer interest in the amount of nine (9) percentage points above EURIBOR rate.

V. Delivery

1. Unless agreed otherwise, all deliveries shall be EXW Incoterms 2020.
2. All prices duly consider all taxes, charges or fees, imposed or assessed in Germany only. However, all taxes, duties, charges and fees levied or accrued out of Germany in connection with the contract have not been included and shall be borne by the customer.

VI. Time of delivery and default in delivery

1. The delivery dates of Services shall be set forth in the contract between FAM and Customer. Unless expressly agreed otherwise, any delivery dates are non-binding.
2. Observance of any (binding or not binding) delivery dates by FAM presumes that all commercial and technical issues between the contracting parties are clarified and that Customer has fulfilled all obligations to cooperate with FAM, in particular by providing all necessary specifications, official

certifications or permits, but also by making the down payment and any other payments without delay. If this is not the case, any delivery dates shall be extended accordingly.

3. Any (binding and non-binding) delivery dates are subject to appropriate and timely delivery by FAM's subcontractors and suppliers. Any delivery dates shall be extended accordingly, and FAM shall not be liable for any delays caused by its subcontractors or suppliers.
4. In the case that delivery or acceptance are delayed for reasons that are due to Customer, Customer shall reimburse the costs and damages caused by such delay (including but not limited to additional working hours, loss of profit, and costs for appropriate storage of the Delivery Items of at least 1% of the outstanding price). FAM may, after setting an appropriate period of time, dispose the Delivery Items.
5. In the event that non-observance of a delivery time or date is due to force majeure, industrial action or other events or situations that are beyond FAM's control (hereinafter "disruption of operations without fault"), the time of delivery shall be extended accordingly. In order to prove a disruption of operations without fault, it is sufficient if FAM shows that a respective event took place or is taking place and that this event has an impact on FAM's business. It is not required that FAM proves that the event has affected the work regarding the Delivery Items in particular. However, Customer shall have the right to prove, that the work on the Delivery Items has not been affected by the event. FAM shall inform Customer of the beginning and the end of such an event as soon as possible. FAM is not liable for any delays caused by a disruption of operations without fault, even if such a disruption appears at a time when FAM is already (culpably) in default. If the Customer wants FAM to mitigate any negative effects of the disruption of operations without fault Customer and FAM have to reach an agreement about such measures and Customer has to pay for any additional costs resulting from such measures.
6. In case of a disruption of operations without fault, which makes an amendment of the underlying agreement(s) necessary, FAM shall have the right to rescind the contract if the parties were not able to agree on such an amendment within a reasonable time. Customer has to reimburse FAM for the Services already performed and FAM has to deliver Customer the respective Delivery Items.
7. In the event that FAM is culpably in default and such delay causes damages to Customer, the latter shall be entitled to claim damages under the conditions laid down in Clause XIII.3 to XIII.7.

VII. Transfer of risk, acceptance

1. The risk shall transfer to Customer with delivery of the respective Delivery Item in accordance with Incoterms 2020.
2. If shipment is delayed or not performed due to circumstances beyond the responsibility of FAM, the risk will transfer to Customer from the date of notification of readiness for shipment. FAM undertakes to take out insurance coverage for the item(s) as requested by Customer at the latter's expense.
3. To the extent that the Delivery Items are subject to acceptance, acceptance has to be performed immediately after delivery but not before Customer has had reasonable time to examine the Delivery Items. Customer shall not be entitled to reject acceptance in case of a minor/non-substantial defect. In case non-examination by Customer Delivery Items shall deemed to be accepted one (1) week after notification of readiness for acceptance. In case that Customer refuses acceptance without, the Delivery Items are deemed to be accepted one (1) week after delivery or deemed delivery.
4. Partial deliveries shall be allowed, provided they are reasonable.

VIII. Lack of adequate financial capacity

If it becomes apparent after conclusion of the contract that the claim to the contract price is in jeopardy due to Customer's lack of adequate financial means (e.g. due to an application to open insolvency proceedings in respect of the Customer's assets, or

similar proceedings in the country of Customer's place of business, or if Customer does not meet agreed payment due dates), FAM may pause its work and/or hold back the Delivery Items (all without getting into default) until full payment is made or until Customer has supplied sufficient security. Further, FAM shall be entitled to rescind the contract and to demand the immediate return of the Delivery Item(s).

IX. Retention of title

1. FAM reserves his property right(s) on all Delivery Items until (i) receipt of the full payment of the contract price and other ancillary costs, if any, resulting from the contract and until (ii) any and all of FAM's claims resulting from any other business relation with Customer or Customer's affiliates have been fulfilled.
2. Customer shall not be entitled to sell nor pledge nor assign the Delivery Item(s) as security until title has passed to Customer.

In case the parties agreed on an extended retention of title, this applies under the following conditions:

- a) Customer is entitled to sell the Delivery Items in the normal course of business only and only if Customer is not in default of payment.
- b) Customer hereby assigns any claims arising from the resale of the Delivery Items to FAM up to the open amount (including value added tax). This assignment applies regardless of whether the Delivery Item was processed before resale.
- c) Customer shall be authorised to collect the claim for FAM. FAM's right to collect the claim remains unaffected. However, FAM will not collect the claim as long as Customer meets his payment obligations, in particular as long as Customer is not in default of payment and no application for opening insolvency proceedings (or similar proceedings in the country of Customer's place of business) has been filed.
3. If retention of title is not permitted by the law of the state in which the Delivery Item is located, FAM shall be entitled to any equivalent right of the respective state to secure its ownership of the Delivery Items. Customer shall assist FAM to take all necessary measures to secure its ownership or equivalent rights (such as liens).
4. Upon requests of Customer, FAM shall be obliged to release securities insofar as their value exceeds the value of FAM's outstanding claims against Customer by more than 10 %, whereby FAM may select the securities to be released.
5. Until title has passed to Customer, Customer is obliged to handle the Delivery Items with good care. FAM shall be entitled to insure the Delivery Item(s) at Customer's expense against theft, breakage, fire, water and other damage, unless Customer has provided proof that Customer has insured the Delivery Items accordingly. If maintenance and inspection work have to be carried out, Customer has to carry it out in good time at his own expense. In case of seizure, confiscation or other dispositions or interventions by third parties, Customer shall notify FAM immediately in writing and via e-mail. Customer shall indemnify FAM from any costs arising from such seizure or intervention.
6. In the event of any violation of the contract by Customer, in particular of this Clause X, or in the case of a delayed payment, FAM shall, subsequent to submitting a reminder, be entitled to take back the Delivery Item(s) and Customer shall surrender it. Any shipping costs (including packaging and insurance) have to be borne by Customer.

X. Warranty claims

FAM can only be held liable if provided for under statutory law. However, liability under statutory law is limited in accordance with these GTC, in particular as follows and as set out in Clause XIII below.

1. If a Product turns out to be not operating properly, or if there are problems in connection with the Assembly or Commissioning of a Product, in order for FAM to be liable Customer has to prove that such a malfunction was caused by a Service performed by FAM.

2. FAM cannot be held liable if the Delivery Item does not meet any technical standards, laws and regulations not applicable in Germany, unless otherwise agreed.
3. FAM shall not be liable for defects or damages caused by parts, drawings, documents, data, information and services provided by Customer.
4. Regarding inspection and maintenance services FAM warranty will be limited to the proper selection of the experienced and skilled service personnel

XI. Defects of quality

- a) Insofar as FAM has supplied parts all parts that are found defective due to circumstances that occurred before transfer of risk shall – at FAM's choice – either be repaired or replaced free from defects. FAM shall be immediately informed in writing upon detection of such defects. Replaced parts shall become the property of FAM.
- b) After coordination with FAM, Customer shall allow for sufficient time and opportunity for FAM to perform the repair and deliver replacement(s) as deemed necessary; otherwise, FAM shall be exempted from liability for any resulting consequences.
- c) FAM reserves the right to rectify at least two (2) times. If rectification fails, Customer is entitled to reduce the price.
- d) Customer is neither entitled to remedy the defect itself or have such defect remedied by a third party, nor to claim reimbursement for any respective costs from FAM, unless otherwise provided for under statutory law.
- e) FAM shall not be liable for any damages resulting from Customer's attempts to remedy the defect itself or to have it remedied by a third party, in particular, FAM is not liable for any inappropriate repair measures or replacements performed by Customer or a third party.

XII. Customer's complaints

1. To preserve any claims for defects, Customer shall be obliged to carefully examine the Delivery Item(s) immediately after receipt. If a defect is discovered during inspection or later, FAM shall be notified immediately in writing. A notification shall be deemed to have been made immediately, if it is made within a period of one (1) week after discovery or deemed discovery.
2. Irrespective of these duties of inspection and lodging complaints, Customer must notify FAM in writing of any obvious defects (including false and short delivery) within one (1) week after delivery.
3. If Customer does not notify FAM in due time and form, the Delivery Item is deemed free of defects and any warranty rights expire. Incomplete or too general reports will not be accepted to the extent that, if FAM does not have complete documentation at the expiry of the notification period, any claims for defects will expire. The timeliness of the notification is subject to receipt by FAM.

XIII. FAM's liability, Disclaimer of liability

1. No liability is accepted in the following cases:
 - a) Unsuitable or improper use, incorrect Assembly or Commissioning by Customer or third parties, normal wear and tear, faulty or negligent handling, improper Maintenance, unsuitable operating materials, unsuitable base/subsoil, chemical, electrochemical or electrical influences - unless these are the fault of FAM.
 - b) Any problems or difficulties regarding the connection or integration of a Delivery Item into Customer's plant or operation, in particular regarding the interface of the operating systems/Software unless a customised solution is expressly included in the contract and the contract price respectively.
 - c) Defects and damages in or in connection with materials and parts provided by the Customer, such as but not limited to cracks in existing steel structures, etc.
 - d) The Customer is responsible for compliance with any regulations concerning import, transport, storage and use of the goods. No liability is accepted if such regulations are not met, in particular if and insofar as the Delivery Item

cannot be imported into the country of destination or operated there due to legal or official regulations. Notwithstanding exclusion of FAM's liability, any corresponding documents and information as well as any necessary permits must be made available to FAM in good time.

- e) When Customer or a third party performs inappropriate repair measures, FAM shall not be liable for any consequences resulting therefrom. The same shall apply to modifications of the Delivery Item(s) performed without prior written approval of FAM.
 - f) For defects that Customer is aware of or that Customer is gross negligently not aware of at the time the contract is concluded.
2. Customer may only terminate the contract in case of an infringement of major duties for which FAM is responsible and after a grace period of 8 weeks for rectification the Customer has notified FAM about in writing.
 3. Notwithstanding Clause XIII.1 and unless otherwise specified in these GTC, FAM shall be liable for damages only as follows (Clause XIII.4 to XIII.7):
 4. FAM shall be liable for any damages - on whatever legal basis - in the case of intent and gross negligence. In case of ordinary negligence, FAM shall only be liable for damages regarding injury to life and limb, physical injury or damage to health;
 5. The limitations of liability shall not apply if FAM has maliciously concealed a defect.
 6. FAM is not liable for any indirect and consequential losses, as well as for loss of production, loss of profit, loss of business etc.
 7. The total liability of FAM under or in connection with the Contract shall not exceed 50% of the total net value of the contract.
 8. FAM's total liability shall not exceed 30% of the total net value of the contract for inspection, repair, refurbishment and reconstruction orders.
 9. Customer herewith agrees to indemnify FAM performing the services from any claims caused by or in connection with the execution of the services exceeding the maximum liability as per maximum order value raised by Customer or any third party, including, but not limited to, any insurers of Customer.

XIV. Defect Liability Period

1. The defect liability period and thus the period for claims arising from defects of quality and deficiencies in title shall expire twenty-four (24) months from the date of delivery.
2. The limitation period is not renewed or extended if FAM remedies a defect. In the case that FAM remedies a defect using spare parts the period of limitation for claims for defects of spare parts expires twelve (12) months after transfer of risk of such spare parts.

XV. Software, machine data

1. If FAM provides a Software, especially if the Software is integrated into the Product, this Software is a part of the Delivery Items and FAM is only responsible for the Software and the Delivery Items running together smoothly. However, FAM is not responsible for the connection of the Software with plants, operations and/or any operating systems of Customer respectively unless expressly agreed otherwise in writing.
2. Customer shall be granted a non-exclusive and non-transferable right to use the supplied Software including the pertaining documentation. Such Software shall be permitted for use in the defined Delivery Item(s) only. Use of such Software in more than one (1) system shall not be allowed.
3. Customer may transfer the right to use the Software only in case of a legitimate interest, in particular if Customer resells the respective Delivery Item to a third party. In such case Customer shall ensure that the third party complies with this Clause XV. Customer undertakes not to remove any of FAM's data - in particular copyright notices - or modify such information without FAM's express prior approval.

4. All other rights to the Software and the pertaining documentation, including copies, shall remain with FAM or the Software supplier. Granting of sublicenses is not permitted.
5. FAM is not liable for any damages that occur because Customer fails to update the Software.
6. Unless otherwise agreed with the Customer, it shall be deemed agreed with respect to the quality of the products to be delivered by FAM that FAM may, at its own discretion, equip these products upon delivery with a data logger by means of which FAM can permanently collect, store, process and use operating data occurring during the operation of the product by remote access. The data logger collects no personal data. FAM is entitled to use the data collected by the data logger permanently for internal statistical purposes at FAM and for benchmarking the services of FAM. If agreed with the Customer, FAM shall monitor the functionality of the product via the data logger and provide remote maintenance services for the Customer.

XVI. Confidentiality

1. The contracting parties undertake to keep confidential information of the other contracting party secret.
2. Confidential information is information that is either expressly designated as such or where the circumstances indicate that it is confidential information.
3. FAM may disclose confidential information to third parties insofar as this is necessary in connection with the performance of the contract. In this case, FAM will oblige the third party to secrecy in accordance with its own obligation.
4. Neither party will make the received confidential information subject of patent applications, nor use them against any application for industrial property rights by the other party.
5. The confidentiality requirement shall not apply to such information (i) that is generally known, (ii) that demonstrably has been known to the receiving party beforehand, (iii) that demonstrably has been independently developed or lawfully obtained by the other party, (iv) that became publicly available without a breach of either party's duty of confidentiality, or (v) that has to be disclosed because of an order of a court or another relevant authorities or because disclosure is required by law.
6. Any obligation of confidentiality expires three years after completion of the contract.

XVII. Compliance

1. Customer takes all necessary and appropriate measures to guarantee compliance with all applicable laws, regulations and rules, including (but not limited to) all child protection and anti-corruption laws and regulations. Customer, its board members, employees, and/or agents have not, and will not directly or indirectly engage in any prohibited activity in connection with any agreements made between FAM and Customer. Prohibited activities include in particular: (i) making contributions or giving benefits or advantages to FAM, its board members, employees, and/or agents (e.g. money, gifts, invitations of a predominantly non-operational nature, such as sporting events, concerts, cultural events), as well as (ii) receiving such contributions, benefits or advantages. Any violation of this Clause XVII entitles FAM to rescind or terminate the contract without notice.
2. The Customer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014.
3. The Customer shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.
4. The Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph (1).
5. Any violation of paragraphs (1), (2) or (3) shall constitute a material breach of an essential element of this Agreement,

and the [Exporter/Seller] shall be entitled to seek appropriate remedies, including, but not limited to:

- (i) termination of this Agreement; and
 - (ii) a penalty of 20% of the total value of this Agreement or price of the goods exported, whichever is higher.
6. The Customer shall immediately inform the FAM about any problems in applying paragraphs (1), (2) or (3), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The Customer shall make available to the FAM information concerning compliance with the obligations under paragraph (1), (2) and (3) within two weeks of the simple request of such information."

XVIII. Applicable law, Arbitration

1. All legal relations between FAM and Customer shall be governed by the law of the Law of Switzerland whereby the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly and entirely excluded.
2. All disputes arising out of or in connection with the contract between FAM and Customer, or its validity shall be finally settled in accordance with the Arbitration Rules of the International Chamber of Commerce without recourse to the ordinary courts of law.
3. The arbitral tribunal shall be comprised of three members.
4. The seat of the arbitration is Zurich, Switzerland.
5. The language of the arbitration shall be English, whereby exhibits may also be presented in German without translation, in case all arbitrators are capable of the German language.

XIX. Severability clause

If any provision of these GTC is or becomes invalid in full or in part, this shall not affect the validity or enforceability of the remaining provisions.