

General Terms and Conditions of f-tronic GmbH

§1 General

(1) The following General Terms and Conditions (GTC) apply in commercial business transactions with all f-tronic customers.

(2) Terms and conditions of the customers or third parties do not apply, even if f-tronic does not separately object to their application in individual cases. Even if we refer to a letter containing or referring to terms and conditions of the supplier or any third party, this does not constitute acceptance of these terms and conditions.

(3) Offer and conclusion of contract

a. All offers made by f-tronic are subject to change and are non-binding, unless they are expressly marked as binding or contain a specific acceptance period. Purchase orders or jobs can be accepted by f-tronic within 14 days of receipt.

b. The sole legal basis for the legal relationship between f-tronic and the customer is the written purchase contract, including these General Terms and Conditions. This fully reflects all agreements between the contracting parties regarding the subject matter of the contract. Verbal commitments made by f-tronic prior to the conclusion of this contract are not legally binding, and verbal agreements of the contracting parties will be replaced by the written contract, unless it is expressly apparent from them that they will continue to apply in a binding manner.

c. Additions and amendments to the agreements reached, including these General Terms and Conditions, require the written form in order to be effective. With the exception of managing directors or authorized officers, f-tronic employees are not entitled to make deviating verbal agreements.

d. Information from f-tronic on the subject of delivery or performance (e.g. weights, dimensions, utility values, loading capacity, tolerances and technical data), as well as the representations of f-tronic of the same (e.g. drawings and illustrations) are only approximate unless usability for the contractually intended purpose requires exact conformity. They are not guaranteed characteristics, but descriptions or labels of delivery or performance. Commercial deviations and deviations that occur as a result of legal regulations or that represent technical improvements, as well as the replacement of components with equivalent parts, are permitted insofar as they do not affect the usability for the contractually intended purpose.

e. f-tronic retains ownership or copyright of all offers and estimates made by it, as well as any drawings, illustrations, calculations, brochures, catalogs, tools and other documents and aids made available to the customer. Without the express consent of f-tronic, the customer may not make these items available to third parties, either as such or in terms of content, disclose them, or use or duplicate them themselves or through third parties. At the request of f-tronic, he must return items in full and destroy any copies made if they are no longer needed by him in the proper course of business, or if negotiations do not lead to the conclusion of a contract.

§2 Prices

(1) Net prices

Prices apply to the scope of services and supplies listed in the order confirmations. Additional or special services will be charged separately. Packaging costs are generally included in the price of the goods. Special packaging will be charged to the customer at cost price. The prices are quoted in euros ex works, plus the statutory VAT, and for export deliveries also customs duties, as well as fees and other public charges. Additional special labels are not included in the price.

(2) Surcharge

Insofar as the agreed prices are based on the list prices of f-tronic and the delivery is to be made more than four months after the conclusion of the contract, the list prices of f-tronic applicable at the time of delivery will apply (in each case less an agreed percentage or fixed discount). Exceptions to this are prices agreed in framework contracts.

(3) Due date

Invoices are payable within 30 days without any deductions, unless otherwise agreed in writing. If payment is made within ten calendar days after invoicing, f-tronic grants a 2% discount on the net price. The decisive factor for the date of payment is the receipt by f-tronic. Checks are not considered payment until after redemption.

(4) Default

If the customer does not pay by the due date, the outstanding amounts bear interest of 5% p.a. from the due date; the assertion of higher interest and further damages in the event of default remains unaffected.

(5) Offsetting

Offsetting against counterclaims of the customer, or the withholding of payments due to such claims, is only permitted if the counterclaims are undisputed or legally established.

(6) Advance payment / Security deposit

f-tronic is only entitled to carry out or provide outstanding deliveries or services in return for advance payment or a security deposit if, after the conclusion of the contract, it becomes aware of circumstances that substantially reduce the creditworthiness of the customer and through which the payment by the customer of the open receivables of f-tronic under the respective contractual relationship is endangered (including from other individual orders for which the same framework contract applies). f-tronic only delivers to customers who are not known to f-tronic against advance payment, and then grants the customer a 2% discount.

§3 Delivery

(1) Deliveries are made ex works.

(2) If the value of an order exceeds the amount of 250.00 Euros net, the delivery will be freight paid from the delivery warehouse to the address of the customer's warehouse within Germany. For shipping and small quantity surcharge for deliveries within Germany, 16.00 Euros will be charged for orders below 250.00 Euros and more than 125.00 Euros, and 24.00 Euros will be charged for orders below 125.00 Euros. Third-party deliveries, special products and also special distributions or special sizes are shipped freight collect at the customer's expense.

(3) Deadlines and dates for deliveries and services promised by f-tronic always only apply approximately, unless an explicit fixed deadline or date is expressly promised or agreed in writing. If shipment has been agreed, delivery deadlines and delivery dates refer to the date of handover to the forwarder, carrier or other third party commissioned with the transport.

(4) Without prejudice to its rights arising from the customer's default, f-tronic may demand from the customer an extension of delivery and service periods or a postponement of delivery dates and service deadlines for the period in which the customer fails to fulfill its contractual obligations to f-tronic.

(5) f-tronic is not liable for the impossibility of delivery or for delivery delays when these

events are caused by force majeure or other events unforeseeable at the time of the conclusion of the contract for which f-tronic is not responsible (e.g. operational disruptions of all kinds, difficulties in procuring material or energy, transport delays, strikes, lawful lockouts, lack of manpower, energy or raw materials, difficulties in obtaining necessary regulatory approvals, regulatory measures or missing, incorrect or untimely delivery by suppliers).

If such events make the delivery or service significantly more difficult or impossible for f-tronic and the hindrance is not only of a temporary nature, f-tronic is entitled to rescind the contract. In the event of obstacles of a temporary duration, the delivery or service deadlines are extended, or the delivery or service dates are postponed by the period of the hindrance plus a reasonable acceptance period. Insofar as the customer cannot reasonably be expected to accept the delivery or service as a result of the delay, he can withdraw from the contract by means of an immediate written declaration to f-tronic.

(6) f-tronic is entitled to make partial deliveries if

- the partial delivery can be used by the customer within the framework of the contractual purpose,
- the delivery of the remaining ordered goods is guaranteed and
- the customer thereby incurs no significant additional expenses or additional costs.

(7) If f-tronic is in default with a delivery or service, or if a delivery or service becomes impossible for whatever reason, the liability of f-tronic for damages shall then be limited in accordance with § 7 of these General Terms of Delivery.

§4 Place of fulfillment, shipping method, transfer of risk, acceptance

(1) Place of fulfillment

Saarbrücken is the place of fulfillment for all obligations under the contractual relationship, unless otherwise specified. If f-tronic is also liable for the installation, the place of fulfillment is the place where the installation has to take place.

(2) Shipping method

The shipping method and packaging are subject to the due discretion of f-tronic.

(3) Transfer of risk

The risk passes to the customer at the latest with the handover of the delivery item, whereby the start of the loading process is decisive, at the forwarder, carrier or other third party commissioned to carry out the shipment. This also applies if partial deliveries are made or f-tronic has taken on other services (e.g. shipping or installation). If the shipment or handover is delayed as a result of a circumstance caused by the customer, the risk passes to the customer from the day on which the delivery item is ready for shipment and f-tronic has informed the customer of this.

(4) Storage costs

The customer bears any storage costs after the transfer of risk. In the case of storage by f-tronic, the storage costs amount to 0.25% of the invoice amount of the delivery items to be stored per completed week. The assertion and proof of further or lower storage costs are reserved for both sides.

(5) Insurance

The shipment will be insured by f-tronic only at the express request of the customer and at his expense against theft, transport, fire and water damage or other insurable risks.

(6) Acceptance

To the extent that acceptance has to take place, the purchased item is deemed to have been accepted if

- the delivery and, if f-tronic is also liable for the installation, the installation is complete,
- f-tronic has informed the customer of this fact with regard to the notional acceptance of the goods in accordance with this paragraph 6 and has requested him to accept the goods,
- twelve business days have elapsed since the delivery or installation, or the customer has started using the purchased item (e.g. has put the delivered system into operation) and in this case six business days have elapsed since delivery or installation, and
- the customer has failed to accept the goods within this period for a reason other than a defect indicated by f-tronic that makes the use of the goods impossible or significantly impaired.

§5 Retention of title

The goods remain the property of f-tronic until all claims have been paid in full, including ancillary claims, claims for damages and redemptions of checks and bills of exchange. The retention of title remains in place even if individual claims of f-tronic are included in a current invoice and the balance has been determined and acknowledged. The buyer is entitled to further process and dispose of the goods, taking into account the following provisions: The buyer's powers to process goods subject to retention of title in the ordinary course of business end with the buyer's suspension of payment or with the application for or commencement of insolvency proceedings. As a result of processing, the buyer does not acquire ownership of the new item, in accordance with § 950 BGB. The processing is carried out without f-tronic hence incurring any liabilities. If the goods are processed, mixed or blended with other items, f-tronic acquires co-ownership of the new item in proportion of the value of its reserved goods to the total value of the goods. The buyer hereby assigns the claim with all ancillary rights from the resale of the reserved goods to f-tronic, proportionately also insofar as the goods have been processed, mixed or blended and f-tronic has acquired co-ownership thereof in the amount of its invoice value. In the latter case, f-tronic is entitled to a fraction of the respective purchase price claim for this session in proportion to the invoice value of its reserved goods at the invoice value of the item. If the buyer has sold the claim in the context of genuine factoring, he assigns the claim taking its place against the factor to f-tronic. f-tronic accepts this assignment. f-tronic will not collect the assigned claims as long as the buyer meets his payment obligations. The direct debit authorization expires in case of default of payment of the buyer. In this case, f-tronic is authorized by the buyer to inform the customer of the assignment and to collect the claim itself.

The buyer is obliged to provide f-tronic, upon request, with a detailed list of the claims due to f-tronic including name and address of the customer, amount of the individual claims, date of invoice etc. and to provide f-tronic with all the necessary information for the assertion of the assigned claims and to allow the verification of this information. The buyer is entitled to collect the claims himself as long as f-tronic does not give him any other instructions. If the value of the collateral existing for us exceeds f-tronic's claim by more than 20% in total, f-tronic is obliged to release securities of f-tronic's own choice at the request of the buyer.

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§6 Warranty, material defects

(1) Warranty period

The warranty period is one year from delivery or, if acceptance is required, from acceptance. However, if the goods are a built structure or an object that has been used for a built structure in accordance with its customary use and has caused its defectiveness (building material), the limitation period in accordance with the statutory provisions is 5 years from the date of delivery (§ 438 para. 1 No. 2 BGB). Statutory special regulations for in rem surrender claims of third parties (§ 438 para. 1 No. 1 BGB) also remain unaffected, in case of malice of the seller (§ 438 para. 3 BGB) and for claims in the supplier recourse in cases of final delivery to a consumer (§ 479 BGB).

(2) Obligation to examine and to give notice of complaint

The delivered items must be inspected carefully immediately after delivery to the customer or to the third party appointed by him. They shall be deemed approved if f-tronic has not received a written notice of defects in the event of obvious defects or other defects which were detectable in a prompt, thorough investigation within seven working days of the delivery of the goods, or otherwise within seven working days of the discovery of the defect or any earlier date on which the defect was recognizable for the customer without closer examination in case of normal use of the delivery item. At the request of f-tronic, the object of the complaint shall be returned freight carriage paid to f-tronic. In the case of a justified defects complaint, f-tronic will pay the costs of the cheapest shipping route; this does not apply if the costs increase because the delivery item is located in a place other than the place of intended use.

(3) Rectification

In the event of material defects of the delivered goods, f-tronic is initially obliged and entitled according to its choice to be made within a reasonable time to rectify or replace the goods. In the case of failure, i.e. in the event of the impossibility, unreasonableness, refusal or inappropriate delay of the rectification or replacement, the customer may withdraw from the contract or reduce the purchase price accordingly.

(4) Culpability

If a defect is due to the fault of f-tronic, the customer may claim damages under the conditions specified in Clause 7.

(5) Exclusion / additional costs

The warranty does not apply if the client changes the delivery item without the consent of f-tronic or has it altered by third parties, and the remedy of the defect thereby becomes impossible or unreasonably difficult. In any case, the customer has to bear the additional costs to remedy the defect incurred by the change.

(6) In the event of defects of components of other manufacturers, which f-tronic cannot eliminate for licensing or actual reasons, f-tronic will assert its warranty claims against the manufacturers and suppliers for the account of the client or assign them to the client. Warranty claims against f-tronic exist in the case of such defects under the other conditions and in accordance with these General Terms of Delivery only if the legal enforcement of the aforementioned claims against the manufacturer and supplier was unsuccessful or, for example due to insolvency, is futile. During the duration of the legal dispute, the limitation period of the respective warranty claims of the client against f-tronic is inhibited.

(7) The warranty does not apply if the client changes the delivery item without the consent of f-tronic or has it altered by third parties and the remedy of the defect thereby becomes impossible or unreasonably difficult. In any case, the client has to bear the additional costs to remedy the defect incurred by the change.

(8) A delivery of used items agreed with the client in individual cases shall be made under exclusion of any warranty for material defects.

§7 Liability

(1) The liability of f-tronic for damages, for whatever legal reason, in particular from impossibility, delay, inadequate or incorrect delivery, breach of contract, breach of obligations in contract negotiations and tort, insofar as it is a matter of fault in each case, is restricted in accordance with this § 7.

(2) f-tronic shall not be liable in the event of simple negligence on the part of its organs, legal representatives, employees or other vicarious agents insofar as it is not a matter of a violation of essential contractual obligations. Essential to the contract are the obligations to timely delivery and installation of the delivery item free of essential defects as well as advice, protection and custody duties, which enable the customer to the contractual use of the delivery item or are intended for the protection of life or limb of the customer's staff or the protection of the customer's property from significant damage.

(3) Insofar as f-tronic is fundamentally liable for damages on the merits in accordance with this § 7, this liability is limited to damages foreseen by f-tronic at the conclusion of the contract as a possible consequence of a breach of contract or those it should have had to have foreseen upon application of due diligence. Indirect damage and consequential damage resulting from defects in the delivery item are also eligible for compensation if such damage is typically to be expected if the delivery item is used as intended.

(4) In the case of liability for simple negligence, the liability of f-tronic for damage to property and resulting further pecuniary loss is limited to an amount of 6 million euros per claim (corresponding to the current coverage of its product liability or liability insurance), even if it is a matter of a violation of essential contractual obligations.

(5) The above exclusions and limitations of liability shall apply to the same extent to the benefit of the organs, legal representatives, employees and other vicarious agents of f-tronic.

(6) Insofar as f-tronic provides technical information or acts in an advisory capacity and this information or advice does not belong to the contractually agreed scope of services owed by it, this is done free of charge and to the exclusion of any liability.

(7) The limitations of this § 7 shall not apply to the liability of f-tronic for willful misconduct, guaranteed quality characteristics, because of injury to life, body or health or according to the Product Liability Act.

§8 Property rights

(1) In accordance with this § 8, f-tronic warrants that the delivery item is free from industrial property rights or copyrights of third parties. Each contracting party will notify the other contracting party immediately in writing or by e-mail, in case anyone asserts claims against him for breach of such rights.

(2) In the event that the object of delivery violates a commercial property right or copyright of a third party, f-tronic will change or replace the object of delivery in such a way that third-party rights are no longer violated, but the delivery item continues to fulfill the contractually agreed functions, or grant the customer the right of use by concluding a license agreement. If this fails within a reasonable period of time, the customer is entitled to withdraw from the contract or to reduce the purchase price appropriately. Any claims for damages of the client are subject to the restrictions of § 7 of these General Conditions of Sale.

(3) In the case of rights infringements through products of other manufacturers sup-

plied by f-tronic, f-tronic will, at its option, assert its claims against the manufacturers and upstream suppliers for the account of the customer or assign them to the customer. Claims against f-tronic exist in these cases in accordance with this § 8 only if the legal enforcement of the aforementioned claims against the manufacturers and upstream suppliers was unsuccessful or, for example due to insolvency, is futile.

§9 Return shipment

In the case of goods delivered in accordance with the contract, there is no entitlement for the buyer to exchange or return the goods. Should f-tronic exceptionally declare its willingness to exchange or take back the goods, the following applies: Before returning the goods, the exchange or return must be agreed in writing with f-tronic. The goods must then be returned to one of the f-tronics warehouses freight carriage paid and free of charge at the risk of the customer. The goods must arrive at f-tronic in perfect condition; it must not be used, already assembled, broken, defective or constructively overhauled material. It is further agreed that f-tronic will charge the customer 15% of the value of the goods that have been exchanged or taken back as a reimbursement of costs, unless another amount has been agreed separately in writing.

§ 10 Final provisions

(1) Place of jurisdiction

The place of jurisdiction for any disputes arising from the business relationship between f-tronic and its customers / clients is at the discretion of f-tronic Saarbrücken or the domicile of the customer / client. For lawsuits against f-tronic, Saarbrücken is the exclusive place of jurisdiction. Mandatory statutory provisions on exclusive jurisdictions remain unaffected by this provision.

(2) Governing Law

The relations between f-tronic and its customers are exclusively subject to the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) does not apply.

(3) Interpretation

Insofar as the contract or these General Terms and Conditions contain gaps in the regulations, in order to fill in these gaps, those legally effective provisions shall be deemed to have been agreed which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions of Delivery, if the regulatory gap had been known to them.

As of: 2018-09

With the publishing of this edition of the GTC, all previous terms and conditions of f-tronic lose their validity.