



Rev.	2.2 – General Terms and Conditions of Sale
Date:	02.04.2025

FCS System S.r.l. General Terms and Conditions of Sale

These general terms and conditions of sale (hereinafter referred to as the "**Terms and Conditions**") shall apply to all agreements for the manufacture and supply of products as well as for the supply of technical design and installation services (hereinafter collectively referred to as the "**Products**") concluded between FCS System S.r.l. (hereinafter referred to as the "Seller") and the buyer (hereinafter referred to as the "Buyer" and, together with the Seller, the "Parties"). This Terms and Conditions, together with the particular conditions contained in the order confirmation (hereinafter "**Order Confirmation**") and in the documents attached thereto, constitute the integral discipline of the agreement between the Buyer and the Seller and replace any other and/or different terms and/or conditions in conflict with this Terms and Conditions proposed by the Buyer verbally or in writing and not expressly accepted by the Seller.

1 Execution of the Agreement

- 1.1 The agreement shall be considered as executed when the Order Confirmation is sent, conforming to the order sent by the Buyer, except for the provisions of art. 1.3 below. Orders directly processed by the Seller shall also be considered confirmed even in the absence of the sending of the Order Confirmation, the Buyer accepting as of now the Seller's right to execute without express acceptance pursuant to Article 1327 of the Italian Civil Code. Any collection of an advance payment of the order by the Seller does not constitute acceptance of the order. Unless expressly stated otherwise, catalogues, estimates and technical documents are for information purposes only, and the offers of the Seller that are not expressly stated or indicated in the Order Confirmation are not binding on the Parties and do not constitute the subject of the agreement.
- 1.2 Any additions or amendments to these Terms and Conditions shall be effective only if expressly stated in the Order Confirmation.
- 1.3 In the event of any discrepancy between the order and the relevant Order Confirmation, the signing and return of the Order Confirmation by the Buyer shall imply acceptance by the Buyer of the particular contractual terms and conditions set out in the Order Confirmation. The acceptance of the execution of the agreement by the Buyer by conclusive behavior (including, but not limited to, payment of the price or a portion of the price and/or taking delivery of the Products under the agreement) shall imply acceptance of the Order Confirmation.
- 1.4 The Buyer's orders shall be firm and irrevocable for 10 (ten) days following their receipt by the Seller.
- 1.5 The Buyer shall indicate or call out in the order the quantity of the Products and, in the case of a sale on a data sheet or sample, the code of the relevant data sheet or sample approved by the Buyer; if the Parties agree to configure the technical characteristics of the Product other than those indicated in the data sheet or sample, such changes shall be agreed upon in writing and set out in the Order Confirmation.



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2 Product Delivery

- 2.1 Delivery and the related transfer of risks shall occur EX-WORKS ("EXW" Incoterms® 2020) at the Seller's premises in Casale sul Sile (TV), Italy, unless otherwise place indicated in the order and the related Order Confirmation.
- 2.2 The delivery terms indicated in the Order Confirmation are not essential. If a down payment is due on the order or in any case in advance of delivery of the Products, the delivery terms shall begin to run from the date of receipt of the down payment.
- 2.3 If the Buyer delays taking delivery of the Products for more than 5 (five) days from the notice of goods ready for delivery, the Seller reserves the right to proceed with their invoice in advance with the related payment terms. In this case, the Buyer shall be borne the costs of storing the Products at the Seller's warehouses and any other related charges and responsibilities.
- 2.4 If the Buyer:
- (i) refuses to take delivery of and/or pick up the Products or individual batches; or
 - (ii) delays the pick up of the Products by more than 15 (fifteen) days,
- the Seller shall have the right, at its sole discretion, to terminate the agreement pursuant to Article 1456 of the Italian Civil Code, to avail of the remedy pursuant to Article 1514 of the Italian Civil Code or to request enforcement pursuant to Article 1515 of the Italian Civil Code, without prejudice, in any case, to the right to compensation for damages.
- 2.5 The Buyer, without prejudice to the provisions of Article 2.6, shall only be entitled to terminate this Agreement when, following the Seller's delay in delivery of the Products, 90 (ninety) days have elapsed since the Seller's default notice and the Seller is still in default.
- 2.6 If the Seller's delay is caused by force majeure, such as, for example but not limited to, strikes, labour unrest, lock-outs, fortuitous events, fire, shortage or absence of raw materials, delays by carriers and/or suppliers, compliance with public authority measures insurrection, state of war, natural events, embargo, or any other cause beyond the reasonable control of the Seller ("**Force Majeure Event**"), the commencement of the terms shall be suspended from the date on which such event occurred until the circumstance causing the suspension ceases to exist. The Seller shall not be liable for any delay in the fulfillment or non-performance of its obligations that is a direct consequence of the occurrence of a Force Majeure Event, even if such delay exceeds the period of suspension due to such event.
- 2.7 If an Force Majeure Event lasts for more than 120 (one hundred and twenty) days, each Party shall have the right to terminate the Agreement, without prejudice to the right of the Seller to payment for any partial deliveries performed.
- 2.8 The Seller shall be entitled to suspend the execution of the agreement or to make the delivery of Products conditional on the payment of outstanding debts even if:
- (i) the Buyer is in breach of its contractual obligations, even if relate to a different agreement entered into between the Parties;
 - (ii) the Buyer is in arrears in the payment of the price, even if it relates to a different agreement entered into between the Parties.



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3 Product Price

- 3.1 The price indicated in the Order Confirmation refers to the Product with delivery according to the terms set forth in paragraph 2.1 above and inclusive of standard packaging, unless otherwise specified in the Order Confirmation.
- 3.2 Unless otherwise indicated in the Order Confirmation, the prices are net of all charges for taxes, transport, insurance, shipping, storage, handling, demurrage and similar expenses and any other incidental expenses, which shall be borne by the Buyer.
- 3.3 The Seller reserves the right to vary the prices of the Products at any time, it being understood that the new prices shall not apply to agreements executed prior to the date of variation by the sending of the Order Confirmation by the Seller.

4 Payment

- 4.1 The terms of payment are indicated in the Order Confirmation and are essential.
- 4.2 Any payment extensions granted by the Seller shall result exclusively from a subsequent written agreement between the Parties. Payment shall be made in Euro or in the different currency indicated in the Order Confirmation and, in any case, shall be made at the Seller's premises.
- 4.3 In the event of delay in the payment of the price, the Buyer shall be automatically in default and default interest shall accrue on the sums due at the rate set forth in Legislative Decree No. 231/2022, commencing from the day on which payment is due and up to the day of payment, without prejudice, in any event, to compensation for any greater damages suffered by the Seller.
- 4.4 It is in any case understood between the parties that the Products remain the property of the Seller until full payment of the relative price pursuant to Article 1523 of the Italian Civil Code (*Riserva di Proprietà*), it being understood that the Buyer shall assume, until full payment of the price, all risks and dangers connected to the preservation of the Products, even if deriving from a fluke or force majeure event. During the aforementioned period, the Buyer shall not be entitled to dispose of, give in use, seize or attach the Products purchased or otherwise dispose of them, and shall store them in such a way as to make the existence of retention of title in favour of the Seller immediately evident. In the event of breach of any of the aforementioned obligations, the Seller shall be entitled to demand immediate payment of any sums still due to it, without prejudice to its right to terminate the agreement pursuant to Article 1456 of the Civil Code and to claim compensation for any damage caused to it.
- 4.5 The Buyer shall not be entitled to delay or suspend payment for the Products under any circumstances, including in the case of defects and/or non-conformities, except for the right to recover what has been unduly paid (*solve et repete*), nor shall the Buyer be entitled to set off any claims against the Seller, unless otherwise agreed in writing.

5 Complaints and Warranty

- 5.1 Any complaints relating to the condition of the packaging, quantity, number, external characteristics of the Products and/or deviations from the relevant samples (apparent

defects) shall be notified to the Seller in writing, under penalty of forfeiture, within 8 (eight) days from the date of receipt of the Products. Complaints relating to packaging must be documented by placing the necessary reservations on the documents relating to the delivery of the goods. Any complaints relating to defects that cannot be detected by diligent inspection upon receipt (hidden defects) shall be notified to the Seller in writing, under penalty of forfeiture, within 8 (eight) days from the date of discovery of the defect and in any case within 12 (twelve) months from delivery.

- 5.2 Complaints must expressly indicate the type of discrepancy and/or defect found, the quantity of discrepant and/or defective Products and the relevant codes and serial numbers (if any) and provide photographic evidence of the defects and/or flaws found.
- 5.3 The Vendor undertakes to remedy any defect, lack of quality or lack of conformity of the Products attributable to it, occurring within 12 (twelve) months from delivery of the Product, provided that the same has been notified to the Vendor in good time in accordance with Article 5.1. The Seller may choose, at its sole discretion, whether to reduce the price of the Products by reason of the decrease in their value due to the defect or to replace at its own expense the Products found to be defective and/or flawed. Products found to be faulty or defective may only be returned to the Seller by the Buyer with the latter's express written consent and in accordance with the return procedures indicated by the Seller. Products replaced under warranty shall be subject to the same warranty provided for herein commencing from the date of replacement.
- 5.4 The warranty does not include: (i) defects/faults of the Products resulting from the incorrect or improper use, assembly, installation, repair of the same by the Buyer or its assignees and/or attributable to third parties, as well as from the unauthorised use of non-original spare parts; (ii) the non-compliance of the Goods with particular specifications or technical characteristics or their suitability for particular uses, unless such characteristics were expressly agreed upon in the Order Confirmation or in documents expressly referred to for this purpose in the Order Confirmation or were not present in the sample approved by the Buyer, as the case may be.
- 5.5 The Seller does not guarantee the suitability of the Products for specific uses, the assessment of which remains the sole responsibility of the Buyer. Any images or drawings contained in advertising and marketing material and illustrating any use of the Products are for illustrative purposes only.
- 5.6 It is understood that the aforesaid warranty (consisting in the obligation to reduce the price or replace the Products) is absorbent and substitutive of the warranties or liabilities provided for by law and excludes any other liability of the Seller (whether contractual or non-contractual) however arising from the Products supplied (such as, for example, loss of profit, loss of chance, indirect damages, recall campaigns, etc.).

6 Indemnity

- 6.1 The Buyer agrees to indemnify and hold harmless the Seller and its agents, representatives, employees, subsidiaries, parents and affiliates, as well as its successors and assigns, from any and all claims, actions, proceedings and liabilities (including legal fees and consequential



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damages) arising out of death or injury or damage to property and caused by the Products as a result of any act or omission of the Buyer, its agents, representatives, officers, employees, servants, attorneys or contractors.

7 Limitation of Liability

- 7.1 To the extent permitted by applicable law, the Seller's aggregate liability to the Buyer in respect of agreements entered into on the basis of these Terms and Conditions for any damages, costs or expenses suffered by the Buyer in connection with any breach by the Seller of its contractual obligations to the Buyer shall not exceed and shall therefore be limited to a maximum limit equal to the price paid by the Buyer for the Goods under the relevant agreement. In particular, within the above limits, the Seller shall not be liable to the Buyer for loss of profit or other costs or liabilities (whether foreseeable or otherwise), including but not limited to loss of chance or business opportunity.
- 7.2 In any event, the Seller shall not be liable for any damage, whether direct or indirect, to persons or property resulting from the use by the Buyer of spare parts for the Products that are not original Seller spare parts or in any case spare parts not purchased from the Seller.

8 Intellectual Property - Confidentiality

- 8.1 The Buyer acknowledges that the Seller is and remains the sole owner of the intellectual property rights relating to the Goods, including (such as, for example, but not limited) technology, trade and trade secrets, trademarks, designs, software, whether patented and/or registered or not (hereinafter jointly referred to as the "**Intellectual Property**") and nothing in these Terms and Conditions shall be construed as granting the Buyer any rights in the Intellectual Property. The Buyer undertakes to refrain from any act that may infringe or compromise such rights.
- 8.2 The Buyer undertakes not to disclose to third parties any element of the Intellectual Property or any other confidential information of which it has become aware in the course of its business, nor to submit to the competent authority any application for registration of any element of the Intellectual Property.
- 8.3 The Buyer shall not disclose to third parties or use in any manner whatsoever either technical or commercial information of the Seller, whether written or oral, in any way received or learned in the course of negotiations or the execution of any purchase order.

9 Termination

- 9.1 Notwithstanding the provisions contained in other paragraphs of these Terms and Conditions the Seller is entitled, at any time, to terminate the sale and purchase agreements:
- (i) pursuant to Article 1456 of the Italian Civil Code in the event that the Buyer fails to fulfil any of the obligations set forth in Sections 2.4 (*Delivery of Products*), 4.1, 4.2 (*Payments*), 8 (*Intellectual Property – Confidentiality*);
 - (ii) pursuant to Article 1454 of the Italian Civil Code if there is a breach of the obligations set forth in these Terms and Conditions or in the Order Confirmation, and the Buyer



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does not remedy such breach within 15 (fifteen) days after receipt of a warning letter from the Seller.

10 Protection of Personal Data

10.1 Each Party undertakes to carry out any processing of personal data of the other Party in compliance with the applicable privacy legislation and the GDPR 2016/679 and solely for the purpose of the performance of the agreements concluded between them.

11 Applicable Law and Jurisdiction

11.1 These Terms and Conditions, and the agreements governed by them, are subject exclusively to Italian law with the express exclusion, if applicable, of the 1980 Vienna Convention on the International Sale of Goods (CISG) and the conflict rules of private international law.

11.2 Any dispute relating to the application, execution, interpretation, termination of these Terms and Conditions and of the agreements governed by them, which is not amicably settled by the Parties, shall be referred to the exclusive jurisdiction and competence of the Court of Treviso - Italy. Notwithstanding the foregoing, the Seller shall also have the right, at its own discretion, to refer the matter to the Court of the place where the Buyer has its registered office.

12 Final Provisions

12.1 If any provision of these Terms and Conditions or of an agreement regulated by them be null and void or ineffective, any such nullity or ineffectiveness shall not extend to the remaining contractual provisions.

12.2 Any communication between the Parties shall be valid only if made in writing.

12.3 These Terms and Conditions supersede and replace all previous versions of the Terms and Conditions issued by the Seller. Any general terms and conditions of the Buyer, and in particular the Buyer's terms and conditions of purchase, shall not apply to the agreements between the Seller and the Buyer, unless expressly stated otherwise in the Order Confirmation.

12.4 Failure by the Seller to exercise any right or option under these Terms and Conditions or other contractual provisions shall not be construed as a general waiver of such right or option, nor shall it prevent the Seller from subsequently requiring the strict and punctual enforcement of all provisions contained herein.

12.5 In the event of any discrepancy between the Italian language version and the English language version of these Terms and Conditions, the Italian language version shall prevail.