

General Terms of Service for Service Contracts
(in part. the planning, assembly and repair of anti-hail netting, rain protection and irrigation systems)
of Fruit Security GmbH, 257064k

§ 1 General provisions

- (1) The following terms and conditions shall apply, as amended in each case, to all present and future service contracts for the planning, installation and repair of anti-hail netting, rain protection and irrigation systems, even if we do not explicitly refer to them.
- (2) We hereby object to any counter-confirmations, counter-offers or notes of the customer that refer to its General Terms and Conditions; any deviating terms of the customer shall only apply if confirmed by us in writing. If the purchaser is a consumer within the meaning of the KSchG (consumer protection act), our terms shall only apply to the extent they do not violate any mandatory legal rules.
- (3) The customer may assign any claims resulting from legal transactions concluded with us only upon our explicit consent.

§ 2 Contractual principles

- (1) All our offers are without obligation.
- (2) Orders placed by customers shall only be deemed accepted by us (even if placed by accepting any offer submitted by us) if we have confirmed them in writing.
- (3) All of the documents that the conclusion of the contract was based on shall be considered to form the basis of the contract, and in the following order of priority:
 - a) our order confirmation sent to the customer
 - b) the customer's (purchase) order
 - c) our underlying quotation
 - d) the fact sheets and specification sheets transmitted by us
 - e) the sampling documents and plans transmitted by us
 - f) other documents that the contract is based on
- (4) The documents pertaining to the offer, such as illustrations, drawings, weight specifications and dimensions only represent approximations, unless they are explicitly designated as binding. We reserve the title and copyright to cost estimates, drawings, plans and other documents; they must not be made accessible to third parties. Information contained in brochures and leaflets is non-binding.
- (5) Structural analyses and ground anchor tests shall only be performed upon the customer's explicit request. However, we shall point out their necessity, if applicable.

§ 3 Terms of payment

- (1) Our prices are indicated net of VAT as applicable at the time of performance of the service.
- (2) If additional or increased costs (e.g. customs duties, currency adjustment) are incurred due to legislative changes occurring between the time of contract conclusion and performance of the service, we shall be entitled to increase the agreed prices accordingly.
- (3) Our fee shall basically be due for payment without deduction immediately after receipt of the invoice, unless any other payment term is agreed in writing.
- (4) We shall not accept bills of exchange or cheques, except if so agreed in exceptional circumstances and only as payment. Discount and note charges shall be for the account of the customer and shall be due immediately.
- (5) If the invoice amount is not settled within 14 calendar days after the invoice date or on any other due date, we shall be entitled to charge default interest for damages in the amount accounted for, but at least – and regardless of fault – in the amount of 9.2 percentage points above the respective OeNB base rate p.a. (amount of the statutory default interest rate for transactions between entrepreneurs), without any separate dunning letter being required.
- (6) If the customer no longer carries on any regular business operations, if, in particular, any cheque or note protest takes place or if any delay or even suspension of payment occurs, or if judicial or out-of-court composition proceedings are initiated or any proceedings under insolvency law are opened with respect to its assets, or if such proceedings are not opened but only for lack of sufficient assets to cover the costs, we shall be entitled to demand immediate payment of our claims from the business relationship, even if we have accepted notes or cheques. The same

shall apply if the customer is in default of its payments to us, or if other circumstances are revealed that raise certain doubts as to its creditworthiness. Moreover, in that event we are entitled to withhold outstanding services, to request payment in advance or to be provided with collateral or to rescind the contract.

- (5) The customer shall only be entitled to offset any claims against our claims and to withhold or reduce any payments, if the counter-claims alleged by it in this respect have been established as final and absolute in court or were explicitly acknowledged by us.
- (6) For price positions to be settled according to the actual costs incurred, Fruit Security shall indicate the unit price / hourly rate and estimate the amount of work to be actually performed. The customer agrees to the estimated amounts being non binding and subject to change. The price position in question may be adjusted upwards or downwards, depending on the actual amount of work incurred. The customer agrees to pay any additional costs independent of any notice provided by Fruit Security. Any rescission of the contract by the customer shall be excluded in this context.

§ 4 Official approvals / Third-party rights

- (1) The customer shall – on its own – obtain and maintain any official approvals or notices that may be required for installation of the system, except if we are explicitly commissioned with obtaining the same. We shall not warrant that we can obtain the relevant approvals.
- (2) Any fees and other costs associated with the official proceedings (e.g. for approvals, notices, permits, statical and structural-physical tests) shall be for the account of the customer.
- (3) The customer explicitly promises that it is entitled to install the system at the location provided for the purpose and that erection of the same will not violate any third-party rights. The customer shall indemnify us in this respect.

§ 5 Services to be provided by the customer

- (1) The customer shall generally be responsible for the legal and factual constructability of the plot of land where the system is going to be installed (e.g. load-bearing capacity, subsoil).
- (2) In the event that we are commissioned with the planning, assembly or repair of a system, the customer shall provide in advance any information and documents required in this respect. The customer shall, in particular: make available a blueprint of the area where the system is meant to be installed, including the pipes and wires, stakes and constructions situated on site, both above ground and down to a depth of 3 m below ground; specify which crops need to be protected or irrigated and/or which objects need to be protected; specify the heights, row widths, spacing between columns, designs, minimum clearance heights required from the customer's perspective, in case of irrigation systems: the inflow amount to be provided etc.
- (3) Our services will be provided based on the completeness of the information provided by the customer in writing. In the absence of information to the contrary, we shall provide our services based on average values. Any extra costs resulting from incomplete or incorrect information shall be for the account of the customer. Any curtailing of the system or reduction of the relevant areas resulting therefrom shall not decrease our claim for consideration.
- (4) The customer shall indemnify and hold us harmless with regard to any claims for damages by third parties due to losses caused by incorrect or incomplete information from the sphere of the customer.
- (5) In the event that we are commissioned with performing assembly or repair work, the structural conditions must allow for unobstructed provision of the services or assembly work. Unless otherwise agreed in writing, the customer shall ensure, for its own account and on its own responsibility, that the following prerequisites are met, in particular:
 - a) for work associated with anti-hail netting and rain protection systems: existence of a paved access road and a parking position for the required excavator, assembly and delivery vehicles, accordingly for vehicles with a gross weight of 40 t;

- b) existence of an eligible storage area next to the building site for interim storage and preparation of the components for assembly;
 - c) existence of an up-to-date blueprint of all pipes, wires and constructions situated on site, both above ground and down to a depth of 3 m below ground, or of a written confirmation by the customer to the effect that no pipes/wires and constructions exist either above or below ground;
 - d) provision of site power supply (220 V/380 V) with at least 25 A fuse protection;
 - e) provision of construction site water and drainage pipes;
 - f) removal of obstacles or safety hazards within the work area (e.g. power lines) or appropriate protection of the work area;
 - g) any barriers securing the building site, if required.
- (6) If the customer fails to meet the aforementioned obligations in para. (1)-(4), or fails to meet the same in time, or only meets the same in part, the extra costs incurred as well as any downtime shall be for the customer's account. The same shall apply if additional services were promised by the customer but not provided in time or in full (e.g. support staff for installation work to be provided by the customer). Moreover, we shall be entitled in these cases to withhold our services until the aforementioned prerequisites are met, or we may rescind the contract after granting a reasonable period of grace of 14 days.

§ 6 Dates and periods of performance

- (1) The dates and periods of performance indicated are non-binding, unless explicitly agreed otherwise in writing.
- (2) Obstacles to performance that are due to force majeure or due to unforeseeable events and events that we are not responsible for, such as unfavourable weather conditions, non-availability of all documents and information required for planning, missing components that are required for assembly, malfunctions, strikes, lock-outs, official orders or due to reasons pertaining to the customer's sphere of influence shall release us from the obligation to observe any performance periods agreed, for the duration and to the extent of the effects of such events. Such events shall also entitle us to rescind the contract, without any claims for damages or other claims arising on the part of the customer.
- (3) If an agreed period of performance is exceeded, without the existence of any delivery obstacle according to the above paragraph (2), and if the obstacle is attributable to our sphere of influence, the customer shall grant to us, in writing, a reasonable grace period of at least three weeks. If we culpably fail to observe said grace period as well, the customer shall be entitled to rescind the contract, but not to assert any claims for damages from non-performance or default, unless we have acted with intent or gross negligence.
- (4) If commencement of the service work is delayed through no fault on our part, or if the work is interrupted through no fault on our part, all additional costs incurred, such as travel expenses, travel time, the cost of room and board, and any idle time, may be charged to the customer.

§ 7 Warranty / damages

- (1) In the event that we are commissioned with assembly or repair work, we represent that we will deploy qualified personnel, and warrant the proper execution of the services on the basis of the information provided to us. We shall not be liable for any losses caused by any mistake on the part of the customer.
- (2) In case of non-observance of obligations or recommendations to the customer associated with installation, assembly, commissioning and use (for instance, as stipulated in § 5 or as contained in the operating and maintenance instructions), or of any official approval requirements, any claim for damages against us shall be excluded.
- (3) In case of complaints lodged in due form and in due time, that are objectively justified, the customer shall only have the right to claim subsequent improvement or (if improvement is impossible) replacement, however subject to our right to replace the faulted goods instead of improving them, or to reduce the price instead of replacement or improvement, or to decide on redhibitory action.
- (4) The customer shall not be entitled to any rights and claims beyond that.
- (5) In case of unjustified letters of complaint or claims for damages that cause extensive investigations, the customer may be charged for the cost of the investigation.
- (6) In any case, we shall only be liable to the customer in case of intent or gross negligence. This shall apply, in particular, in case of violation of a duty to warn under §1168a ABGB (Austrian civil code). Moreover, we shall not be subject to any liability for lost profit, consequential damage or for damage due to third-party claims.

§ 8 Miscellaneous

- (1) The place of performance shall be the respective place of provision of the service, and in case of planning work our registered office.
- (2) The place of jurisdiction for all disputes arising from the contractual relationship shall be Weiz. However, we may also choose another place of jurisdiction.
- (3) The law of the Republic of Austria shall apply to the exclusion of conflict of law rules. This shall explicitly apply to the application of the UN Convention on Contracts for the International Sale of Goods (CISG).
- (4) The invalidity of individual provisions of these General Terms and Conditions of Sale shall not affect the validity of the remaining provisions. Invalid provisions shall be deemed replaced by such valid provisions as are suitable to realise the economic purpose of the lapsed provision, to the extent possible.
- (5) The customer explicitly consents to its personal data being stored and processed by automatic means with a view to performing this contract.
- (6) In the event of any inconsistencies between the German version and a translation of the terms and conditions into another language, the German version shall apply exclusively to any issues that arise between the parties.