

General Terms & Conditions (Sale) FAIST Anlagenbau GmbH

Current as of: April 2025

1. // Scope of application

- 1.1. The below general terms & conditions [hereinafter "**GTC**"] govern all business relations, including but not limited to supplies and services, of FAIST Anlagenbau GmbH [hereinafter "**FAIST**"]. The object of agreement may consist of both supplies and services provided to the customer by FAIST. For purposes hereof, "**supplies**" encompass the delivery and sale of objects of agreement. "**Services**" refer to any and all other services provided to the customer irrespective of whether such services are rendered along or in connection with supplies, including but not limited to the installation of the objects of agreement. The GTC only apply in relations with the customer insofar as it is a natural or legal person acting in a commercial capacity (*Unternehmer*; § 14 of the Civil Code [*Bürgerliches Gesetzbuch - BGB*]), a legal entity under public law or a public-law special fund within the meaning of § 310 (1) sentence 1 of the Civil Code [*Bürgerliches Gesetzbuch - BGB*].
- 1.2. The GTC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the customer shall not apply, even if FAIST does not specifically object to their applicability. The unconditional acceptance of customer's orders and contracts does not constitute an acknowledgement of such conditions by FAIST.
- 1.3. The GTC also govern all future business relationships with the customer. Upon the first order under these GTC, the customer recognizes their exclusive applicability with respect to future orders as well.
- 1.4. Such individual agreements as may be entered into with the customer on a case-by-case basis categorically take precedence over these GTC. The content of such agreements shall be governed by a contract or a confirmation by FAIST at least in text form (e.g. letter, e-mail, fax).
- 1.5. Legally relevant declarations and notifications to be made by the Customer to FAIST after the conclusion of the contract (e.g. setting of deadlines, notification of defects, rescission of withdrawal or abatement) must be made in writing to be effective.
- 1.6. Incoterms® referred to in these GTC apply in their currently valid version.

2. // Conclusion of contract, assignment

- 2.1. Unless expressly designated otherwise, all offers are non-binding and subject to change. An order is only valid with FAIST's written confirmation. Offer components such as drawings, descriptions and specifications are deemed approximations unless expressly designated as binding.
- 2.2. The customer must fully inform FAIST of operating and local conditions as well as special operating features before an offer is prepared. The customer is further obligated to provide FAIST with the necessary documentation in a timely manner and free of charge. The customer warrants that the documentation is complete and accurate. The customer will also obtain all requisite approvals without delay. If and to the extent that additional duties are imposed on the customer (especially with regard to the provision of information and other documentation), such duties are incorporated with the order confirmation, at the latest.
- 2.3. Provided that the purpose of use set forth in writing is not affected, FAIST may make technical adjustments and changes at any time – even after the closing and without prior consultation with the customer or its express approval – as long as such adjustments or changes are customary or are mandatory under applicable legal regulations or represent technical improvements, and the quality of the supplies and services as a whole is not affected.
- 2.4. The customer's assignment of rights in relations with FAIST is subject to FAIST's written consent.

3. // Third-party involvement

FAIST may involve third parties in contractual performance at any time without the customer's approval.

4. // Prices, price adjustment, invoice, payment, due date

- 4.1. The prices offered are in EUR ex works, Am Mühlberg 5, 86381 Krumbach (EXW Incoterms®), plus sales tax at the statutory rate then in effect, packaging costs, fees, custom duties and such other dues / costs as may be incurred in connection with the transaction of the contract.
- 4.2. The parties set the applicable price as part of the offer and order confirmation.
- 4.3. In the event that the costs bearing directly on the calculation of a given price change following the closing, including but not limited to the costs of raw materials, wages owed under collective agreements, shipping costs as well as taxes and other dues, FAIST is entitled, in its equitable discretion, to adjust the agreed price accordingly. FAIST may raise prices on the basis of increases of certain types of costs only insofar as decreases of other types of costs do not offset such increases. In the event of cost decreases, the prices are to be lowered insofar as increases in other areas do not offset such decreases wholly or in part. FAIST will time price changes with a view to ensuring that cost decreases are not taken into account according to standards that are less favorable to the customer than those applied to cost increases, to the effect that cost decreases impact prices at least to the same extent as do cost increases. Insofar as FAIST's supplies and services are not rendered as part of a continuing obligation, FAIST's right to adjust prices will not be available until six weeks have passed since the closing. FAIST will provide notice of price changes in text form at least two weeks prior to the effective date. Using the text form, the customer may object to a price change communicated by FAIST within a period of two weeks, failing which the price change is deemed to have been agreed as of the date specified. If the customer objects, FAIST has a special right of termination or rescission that it may exercise within two weeks of its receipt of such objection, with effect after one month. FAIST will advise the customer of such consequence in the notice of price change. Price changes adopted by FAIST as part of continuing obligations do not apply to individual contracts that have already been executed. Applicable rights of termination, including those for cause, are not affected.
- 4.4. Unless agreed otherwise, payment is to be made as follows:
 - 1/3 downpayment upon receipt of order confirmation;
 - 1/3 upon receipt of ready-to-ship notice for primary components; and
 - the rest upon passage of risk "*Gefährübergang*" / acceptance ("*Abnahme*").
 The invoice is due and payable in full within 30 days of receipt. A payment is deemed timely if FAIST receives it on or before the due date. FAIST may at any time demand payment in installments according to applicable law.
- 4.5. The invoice must state prices for supplies and services separately. Insofar as a flat rate has been agreed, only such flat rate is shown.
- 4.6. By accepting the customer's payment designated as the final one without reservation, FAIST does not waive any subsequent claims. FAIST must declare any reservation vis-à-vis the customer within six weeks of FAIST's receipt of the final payment and will submit a verifiable invoice for the claims it reserves – or substantiate such claims when doing so is impossible – within one month after that.

5. // Export control, sanction screening

- 5.1. In order to satisfy the provisions of national and international export-control law, the customer is obligated – to the extent applicable to the object of agreement – to disclose to FAIST upon request and without delay the following information about any and all intermediate customers and end users [hereinafter collectively "**Users**"] of the objects of agreement supplied by FAIST: Name / company name; business address; final destination and purpose of use of the objects of agreement; management as well as ownership / control where available [hereinafter collectively "**Information**"].
- 5.2. In the event that FAIST does not submit such a request at least ten business days prior to the agreed delivery date, the customer is obligated to provide the information on its own initiative without delay. The customer further has a duty to provide information on its own initiative and without delay whenever Information change. Insofar as Information are not known as of the points in time set forth above (e.g., because goods are stocked before recipients is known), the duty to provide information arises immediately upon learning of the recipient's identity.
- 5.3. Whenever the objects of agreement are passed on to third parties, the customer must observe any applicable provision of national and international (re-)export-control law and will procure by means of suitable measures that, in particular,
 - no embargo or other sanctions of the European Union, the United States of America and/or the United Nations, including but not limited to possible restrictions on domestic transactions as well as anti-circumvention bans, are violated by passing objects of agreement on to third parties, brokering contracts with respect to objects of agreement, as a result of work or services performed or the provision of other economic resources in connection with the objects of agreement;
 - the objects of agreement are not put to uses that are prohibited or subject to approval [i.e., uses related to armament, nuclear or weapons technology] unless the requisite official permits have been obtained, in which case proof thereof must be presented to FAIST prior to passing on the objects of agreement in question; and the provisions of any and all pertinent sanctions lists of the

European Union, the United States of America and/or the United Nations regarding business transactions with the enterprises, persons or organizations specified therein are observed.

- 5.4. FAIST's supplies and services are contingent on the absence of obstacles opposing fulfillment under national or international regulations, including but not limited to export-control rules, embargos or other sanctions. In addition, FAIST is entitled to refuse supplies and services as long as the Information set forth in item 5.1 of these GTC have not been provided.
- 5.5. The customer fully indemnifies and holds FAIST harmless from and against all claims asserted against FAIST on account of the customer's failure to fulfill its obligations under export-control law.

6. // Customer's duties to cooperate, on-site installation, technical support

- 6.1. Insofar as the contractually owed service, or any part thereof, is to be rendered on site at the customer's place of business or a third party's place designated by the customer ("**Installation Site**"), the customer must assist FAIST at its own expense unless agreed otherwise. Moreover, the customer must adopt such special measures at the Installation Site as may be needed to protect persons and property. The customer is obligated to notify FAIST without delay regarding existing special security protocols and operating features of relevance to the service.
- 6.2. The customer must procure, in due time before performance has been agreed to commence, that the necessary staff, tools and equipment are available, along with water, electricity, heat and work spaces. In particular, the customer is obligated to provide suitable installation aids, such as scaffolding, ladders, a forklift with work platform and qualified operator as well as a hydraulic platform with a load capacity of at least 350 kg (L = 2.2 m, W = 1.0 m, with adjustable platform) at the appropriate height for the duration of the installation. When needed, especially in cases of installation sites characterized by limited accessibility or when agreed separately, the customer must make available additional needed equipment (e.g. articulated work platforms, truck-mounted and hall cranes). FAIST assumes no liability for the tools and equipment provided by the customer, or for any staff assigned by the same. In the event that the customer fails to fulfill its duties to cooperate, FAIST is entitled – but not obligated – to fulfill the customer's duties in its stead and at its expense, having provided notice to that effect. Additional statutory or contractual rights and claims are not affected.
- 6.3. Unless agreed otherwise, the customer must separately reimburse FAIST on the basis of the contractual agreement for all costs and expenditures incurred on account of the dispatch of technical personnel for purposes of the performance agreed (plant technicians). Travel and waiting times count as hours worked.
- 6.4. If, through no fault of FAIST's own, the equipment or tools it provides on the occasion of installation are damaged or lost, the customer must provide compensation. Damages caused by regular wear are excluded.

7. // Delivery, partial delivery, delayed delivery

- 7.1. If acceptance was not agreed and is not provided by law, delivery is effected ex works, Am Mühlberg 5, 86381 Krumbach (EXW Incoterms®). The choice as to route, mode of transportation and goods designation is FAIST's unless the customer issued specific instructions in those regards.
- 7.2. FAIST may effect partial delivery as long as the customer can put such partial delivery to use in keeping with the contractually intended purpose, the delivery of the remaining objects of agreement is assured and the customer does not incur (or has agreed to bear) significant added expenditures or costs.
- 7.3. Delivery dates and deadlines are set in text form and may be agreed in a binding or a non-binding manner. They are deemed to be binding only if FAIST expressly so confirms in the order confirmation or at a later point in time. For delivery dates and deadlines to be deemed to have been observed, it suffices for the ready-to-ship notice to be issued in time. In the event that the customer fails to provide the information needed for contractual fulfillment when requested, the delivery dates and deadlines are postponed by the length of the delay, as adjusted by an adequate start-up period.
- 7.4. The customer must not call on FAIST to effect delivery until four weeks have passed since the relevant non-binding delivery date or deadline.
- 7.5. In the event that FAIST is in arrears with respect to delivery, or if such delivery – for whatever reason – becomes impossible, FAIST's liability for damages is determined pursuant to item 14 of these GTC. However, such default damage as FAIST may have to cover in cases of slight negligence is capped at 5% of the agreed net price for the delivery in question.

8. // Service, service period, delay in performance

- 8.1. Service dates and deadlines are set in text form and may be agreed in a binding or a non-binding manner. They are deemed to be binding only if FAIST expressly so confirms in the order confirmation or at a later point in time. Service dates and deadlines do not approach until the customer has furnished FAIST with all requisite documentation within the meaning of item 2.2 of these GTC, including but not limited to all technical documentation, it entirely fulfilled its duties to cooperate within the meaning of item 5 of these GTC and FAIST received the agreed downpayment.
- 8.2. In the event that the customer fails to fulfill the aforementioned duty, the service dates and deadlines are postponed by the length of the delay, as adjusted by an adequate start-up period.
- 8.3. In the event that FAIST is in arrears with respect to services, or if a service – for whatever reason – becomes impossible, FAIST's liability for damages is determined pursuant to item 14 of these GTC. However, such default damage as FAIST may have to cover in cases of slight negligence is capped at 5% of the agreed net price for the service in question.

9. // Force Majeure, reservation as to self-delivery, default of acceptance

- 9.1. In cases of Force Majeure (unforeseen circumstances and events for which FAIST is not culpable and which even the diligence of a prudent businessman could not have prevented, including labor disputes, war, fire, floods, transport obstacles, blockades affecting conveyance routes, blackouts, outages or restrictions of the electronic exchange of data caused by third parties, cyber-crimes committed by third parties, shortages of staff, energy or raw / auxiliary materials, subsequent supply bottlenecks, import and export restrictions, official measures, pandemics, epidemics or other breakdowns) affecting FAIST or its suppliers, which temporarily impede FAIST's ability to effect supplies and services when due through no fault of its own, FAIST is released from its duty to render supplies / services for the duration of the event of Force Majeure, as adjusted by an adequate start-up period, as well as to the extent of the effect of such event. FAIST will provide the customer with notice of the occurrence and lapse of Force Majeure immediately upon learning thereof and must use its best efforts to remedy and minimize the impact thereof. FAIST and the customer will coordinate their respective next steps upon the occurrence of Force Majeure. In the event that the delay caused by an event of Force Majeure exceeds three months, either party may exercise a right to terminate or rescind for cause with respect to the contractual portion that remains unfulfilled.
- 9.2. Compliance with delivery / service dates and deadlines is subject to the reservation as to proper and timely self-delivery. Insofar as no proper and timely self-delivery occurred, FAIST is not accountable for its failure to effect supplies or services in relations with the customer, or to do so in a timely manner, provided that FAIST entered into a specific cover transaction with suppliers with the requisite diligence. Insofar as such events significantly impede FAIST's ability to effect supplies or services, or frustrate it altogether, and such impediment is not temporary in nature, FAIST is entitled to terminate or rescind the contract for cause. In cases of temporary impediments, the delivery / service dates and deadlines are postponed by the length of the delay, as adjusted by an adequate start-up period. FAIST will apprise the customer of impending delays as soon as possible. If, due to the delay, the customer can not (or no longer) be reasonably expected to accept supplies or services, it is entitled to terminate or rescind the contract for cause by so declaring in writing vis-à-vis FAIST without delay.
- 9.3. In the event that the customer is in default of acceptance, FAIST is entitled to store the objects of agreement on its premises or, at its option, at another storage site at the customer's risk and expense, provided that the customer's interests are taken into account and storage costs reflect applicable market rates. FAIST will promptly notify the customer of the storage location and furnish it with information about such site, including but not limited to the costs incurred. The customer must, in due time, notify FAIST of its inability to accept the objects of agreement by the applicable deadline. FAIST's statutory rights are not affected.

Enjoy the Silence

10. // Contractual penalty

The customer's claims against FAIST under any agreed contractual penalty may only be asserted promptly after the conditions thereof have arisen – and only if the assertion of such contractual penalty was expressly reserved.

11. // Acceptance ("Abnahme") of services

- 11.1. Insofar as acceptance was agreed or is provided by law, the customer undertakes to accept services within 14 days from the ready-to-accept notice at the installation site. In such a case, the passage of risk coincides with acceptance. In the event that acceptance is delayed through no fault of FAIST's own, acceptance is deemed to have been effected once two weeks have lapsed since the ready-to-accept notice.
- 11.2. If FAIST and the customer agree to extend the period allotted for acceptance, or such period is extended for reasons attributable to the customer, the risk passes to the customer for the length of the delay.
In cases of delayed acceptance or unjustified non-acceptance, FAIST may avail itself of statutory rights. Item 13 of these GTC applies accordingly. If FAIST asserts claims for damages, the amount thereof in cases of delayed acceptance or unjustified non-acceptance equals 15% of the net price for the service. The amount of damages is to be set higher or lower if FAIST or the customer furnishes evidence of greater or lower damage, respectively, or if the customer shows that no damage was incurred.
- 11.3. In cases of the non-acceptance of individual contractual components or the entire object of agreement, the reasons and defects for non-acceptance are to be noted in the acceptance report, with acceptance being deemed to have been effected for any potential defect not listed therein.
- 11.4. Acceptance releases FAIST from its liability for discernible defects insofar as the customer did not expressly reserve the right to assert a certain defect.
- 11.5. If the customer has commenced using the object of agreement without reservation, acceptance is deemed to have been effected implicitly two weeks from the first instance of use, provided that FAIST so advises the client at the time of the commencement of such period, at the latest.
- 11.6. In the event of acceptance of parts of service, the foregoing paragraphs apply accordingly.

12. // Warranty ("Gewährleistung"), supply

- 12.1. In accordance with the below provisions, FAIST is liable for ensuring that the objects of agreement exhibit the agreed quality upon the passage of risk. Guarantees as to quality and durability (*Beschaffheits- oder Haltbarkeitsgarantie*) are provided only insofar as FAIST expressly and separately so declares in writing. Specifics of descriptions in effect at the time of the closing regarding the scope of delivery, appearance, capacities, dimensions and weights, etc. of the objects of agreement are incorporated into the agreement; they are to be regarded as approximations and constitute no guarantee; instead, they serve as a standard for purposes of establishing whether the objects of agreement are free from defects.
- 12.2. In the event that a defect is the result of a customer demand for changes to the quality of the object of agreement, of the materials and components it supplied, made available or specified, of the pre-/partial deliveries it demanded or other circumstances attributable to the customer, FAIST bears no liability so long as it is not guilty of a deliberate or grossly negligent breach of duty.
- 12.3. For the customer to assert claims based on defects, it must have satisfied its statutory duties to examine and report defects (*Untersuchungs- und Rügepflichten*; §§ 377, 381 of the Commercial Code [*Handelsgesetzbuch - HGB*]). Should a defect be detected during the examination or at a later point in time, FAIST is to be notified thereof in writing without delay. Such a notice of defect is deemed to have been issued without delay so long as it is given within two business days, with the timely dispatch thereof sufficing for that purpose. Irrespective of such duties to examine and report defects, the customer must provide written notice of apparent defects within seven business days of delivery; in this case, too, timely dispatch suffices for the deadline to be satisfied. In the event that the customer fails to properly examine goods or report defects, any liability for the unreported defect is excluded.
- 12.4. Insofar as the objects of agreement supplied are defective, FAIST may, at its option, effect remedial performance either by removing the defect (repair) or by supplying a defect-free product (replacement). In the event that its first attempt at remedial performance fails short, FAIST is entitled to at least one more attempt.
- 12.5. If remedial performance was unsuccessful or a grace period to be allotted by the customer for remedial performance expired in vain or may be dispensed with under applicable law, the customer is entitled to rescind the agreement or abate the price. However, no right of rescission is afforded by an insignificant defect.
- 12.6. The customer's claims for damages or compensation for expenditures incurred in vain are confined to those permitted by item 14 of these GTC and are otherwise excluded.
- 12.7. The use of parts purchased elsewhere are subject to the warranty terms in effect with their manufacturer.

13. // Warranty ("Gewährleistung"), service

- 13.1. If the customer demands remedial performance, such performance is limited to the defect (found). § 635 [2] of the Civil Code is not affected.
Any liability on the part of FAIST is excluded if the defect is of no significance to the customer's interests or results from circumstances attributable to the customer.
- 13.2. Changes or repairs made by the customer or third parties without FAIST's prior approval undo FAIST's liability for any resulting defects. This does not apply if and to the extent that the customer furnishes proof to the effect that the defect in question predates acceptance of service.
- 13.3. Subject to applicable law, the customer has the right to remove defects itself, or have third parties do so, and to demand that FAIST cover the necessary costs only (i) in urgent cases of threats to operational safety and for the purpose of averting disproportionately large damages, of which FAIST is to be notified without delay, or (ii) if FAIST failed to remove defects within a reasonable period allotted for that purpose even when accounting for statutory exemptions.

14. // Liability

FAIST's liability under the Product Liability Act (*Produkthaftungsgesetz - ProdHaG*), in cases in which it expressly assumed a guarantee or a procurement risk, on account of deliberate or grossly negligent breaches of duty, for defects it fraudulently concealed as well as for breaches of duties under the General Data Protection Regulation is not limited. Similarly, FAIST bears unlimited liability for deliberate or negligent injuries to life, body or health. In cases of slightly negligent material and financial damage, FAIST bears liability only if it has violated obligations the fulfilment of which (i) is what enables the contract's proper implementation to begin with and (ii) the customer may rely upon in particular measure ("cardinal contractual obligations"), and only to the extent of such amount of damages as may be foreseeable at the closing and common to the contract in question. Under no circumstances are the customer's claims for damages that are based on claims for payment of contractual penalties by the customer's contractual partners foreseeable for FAIST or common to the contract in question in the foregoing sense. The foregoing also applies with regard to FAIST's liability for its staff and (vicarious) agents.

15. // Limitation

- 15.1. In deviation from § 438 [1] no. 3 of the Civil Code, the period of limitation for claims based on material and legal defects equals one year from the time of drop-off. Insofar as acceptance has been agreed, the period of limitation commences upon acceptance. In deviation from § 634a [1] no. 1 of the Civil Code, the general period of limitation for defects equals one year from acceptance.
- 15.2. The foregoing periods of limitation do not replace those prescribed by the Product Liability Act. Likewise, §§ 438 [1] nos. 1 and 2, [3] and 634a [3] of the Civil Code are not affected. The customer's claims for damages pursuant to item 14 of these GTC are subject exclusively to the statutory periods of limitation.

16. // Retention of title

- 16.1. FAIST reserves the title to the supplies until all of its present and future claims under the business relationship with the customer – irrespective of legal reasons – have been paid in full.
- 16.2. Insofar as the customer modifies or processes secured goods, the following applies:
16.2.1. The customer is entitled to modify or process secured goods in the regular course of its business, such modification or processing being undertaken for FAIST as manufacturer. Insofar as FAIST's title is lost in the process, the customer hereby already assigns to FAIST the title to the emerging item with a view to securing the claims pursuant to item

16.1 of these GTC. If secured goods are combined or mixed with other manufacturers' materials or goods, FAIST acquires co-ownership of the new item at a rate reflecting the proportion of the value of FAIST's supplies or services to that of the other, combined or mixed items. The customer is obligated to store the item produced by combining, mixing, modifying or processing for FAIST free of charge.

- 16.2.2. In the regular course of business, the customer is revocably authorized to resell FAIST's object of agreement or such item as may emerge from combining, mixing, modifying or processing at any time, whereas such object or item must be neither pledged nor assigned as security. The customer already assigns to FAIST all claims, along with ancillary rights, to which it is entitled under or in connection with such resale. The assigned claims serve as security for all claims pursuant to item 16.1 of these GTC.
- 16.2.3. The customer is revocably authorized to collect the claims assigned to FAIST in the name and on behalf of FAIST in a fiduciary capacity.

- 16.3. Irrespective of circumstances, the customer is obligated to insure the object of agreement against theft and breakage as well as fire, water and other damages, and it must furnish FAIST with proof of such policies without delay.
- 16.4. Under no circumstances may the customer sell, pledge or assign the object of agreement as security, and it must notify FAIST of any instance of attachment, seizure or other third-party disposition without delay.
- 16.5. Irrespective of circumstances, FAIST will release the security upon the customer's demand insofar as the realizable value thereof exceeds that of the claims to be secured by more than 10%.
- 16.6. In cases of deliveries to other jurisdictions in which the foregoing retention-of-title clause does not match the effect it has in terms of security interest in the Federal Republic of Germany, the customer will use its best efforts – irrespective of circumstances – to furnish FAIST with corresponding security interests without delay. The customer will assist with such measures as registration, publication, etc. as may be needed for or conducive to the effectiveness and enforceability of the security interests. In the event that FAIST's cooperation is required, the customer will so inform FAIST without delay. Furthermore, the customer will advise FAIST as to all significant circumstances of import to the objective of securing as far-reaching a level of protection as possible for FAIST's property. In particular, the customer will provide such documents and information as may be needed to enforce the rights related to FAIST's property. To the extent permitted by law, the provisions of this item apply accordingly to the procurement of a legal position that effectively safeguards FAIST's interests and claims in an equally effective or otherwise suitable manner in the event that, according to the legal code prevailing at the location of the reserved goods, no retention-of-title clause can be effectively agreed.

17. // Security

- 17.1. Unless agreed otherwise in a given offer or the contract, the customer may furnish security by depositing money or providing a guarantee issued by a credit institution or credit insurer authorized to do business in the European Union. FAIST may choose among the various types of security and replace one security by another.
- 17.2. FAIST must return all or part of the security immediately upon the full or partial lapse of the security purpose without delay.

18. // Confidentiality, data processing / storage

- 18.1. The customer must hold in confidence and not publicize or otherwise disclose FAIST's business secrets within the meaning of § 2 [1] of the Act on the Protection of Trade Secrets (*Gesetz zum Schutz von Geschäftsgeheimnissen - GeschGehG*) or such other confidential information, including sensitive data of an economic, legal, fiscal or technical nature (collectively "Confidential Information"), as may have been entrusted or otherwise revealed to the customer, irrespective of whether or not they were expressly designated as confidential. Confidential Information does not include information that were known or generally accessible to the public prior to being communicated to the customer, or subsequently become known or generally accessible to the public in the absence of any breach of a duty of confidentiality; that were demonstrably known to the customer prior to disclosure in the absence of any breach of a duty of confidentiality; that the customer itself gained without relying on or referencing FAIST's Confidential Information; or that an authorized third party delivered or made accessible to the customer in the absence of any breach of a duty of confidentiality. This duty survives the discontinuation of the relevant business relationship for a period of five years and applies to the contents of the contract itself, too.
- 18.2. The customer is not entitled to use, exploit or appropriate the Confidential Information itself or for any purpose other than those contractually agreed between FAIST and the customer. Specifically with respect to products and items, the customer must not obtain Confidential Information by way of reverse engineering, observation, examination, deconstruction or testing.
- 18.3. Insofar as documents containing Confidential Information were provided in electronic form, such data are to be erased or – if doing so is technically impossible – permanently blocked upon the discontinuation of this contract, at the latest.
- 18.4. The customer may disclose Confidential Information internally only as needed and only to the individuals who "need to know." Specifically, the customer may make Confidential Information accessible only to those among its employees or advisors who are bound by a (professional) duty of confidentiality, have been assigned to work on contractual relations with FAIST and reasonably require such information. Staff are to be advised as to this agreement. The customer will adopt all measures necessary to ensure that all persons to whom Confidential Information are communicated or made accessible handle them in precisely the manner that is incumbent upon the customer.
- 18.5. The customer will further safeguard the Confidential Information against unauthorized third-party access using appropriate measures of secrecy, and it will observe statutory and contractual data-protection provisions when processing the Confidential Information. This also encompasses technical security measures adapted to reflect the current state of the art (Art. 32 General Data Protection Regulation) as well as the commitment of staff to confidentiality and applicable data-protection regulations (Art. 28 [3] lit. b General Data Protection Regulation).
- 18.6. In the event that the customer deliberately or negligently breaches the aforementioned duties of confidentiality, it undertakes to pay an adequate contractual penalty in an amount to be assessed by FAIST in its equitable discretion, which a competent court is to review in case of dispute. In particular, the amount of the contractual penalty imposed in a given case depends on the degree of confidentiality of the business secret in question, or other Confidential Information, as well as on the number of unauthorized persons to which the information was disclosed in breach of the duty of confidentiality.
- 18.7. FAIST processes personal information in accordance with the provisions of the EU's General Data Protection Regulation (Regulation [EU] 2016/679 of the European Union (GDPR)) as well as other applicable data-protection codes, including but not limited to the Federal Data Protection Act (*Bundesdatenschutzgesetz - BDSG*). Any and all data are kept confidential. For details, reference is made to the separate data-protection notices under [www.faist.de/kontakt/datenschutz], which provide a detailed overview of the processing of personal data.

19. // No retention / set-off

The customer may adjust FAIST's claims only insofar as its counter-claim is undisputed or has been effectively established. The customer may assert a right of retention only to the extent that it is based on claims under the same contractual relationship and the claim is undisputed or has been effectively established.

20. // Legal venue, applicable law

- 20.1. Where none is prescribed by applicable law, the exclusive legal venue for any and all current and future disputes from or in connection with the business relationship is the court with jurisdiction over FAIST's registered offices. Irrespective of circumstances, FAIST may always also file suit in the court with jurisdiction over the customer's registered offices.
- 20.2. The laws of the Federal Republic of Germany apply solely, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) as well as conflict-of-law rules under international private law.
- 20.3. In the event that a provision of these GTC is or becomes ineffective, the remaining provisions hereof continue in full force and effect. To replace ineffective or void provisions, provisions approximating their economic intent are to be found. The same applies to loopholes.

Enjoy the Silence