

**General Terms and Conditions (GTC)  
of AK Fehmarn GmbH & Co.KG**

**1. General / Scope**

These General Terms and Conditions (GTC) are valid for all current and future supplies and services from  
AK Fehmarn GmbH & Co.KG to the customer.

Deviating, conflicting or supplementary General Terms and Conditions of the customer are, even with knowledge, not part of the contract, unless their validity is expressly approved in writing.

AK Fehmarn GmbH & Co.KG is entitled to use third parties, such as subcontractors, to fulfill the contractual obligations towards the customer.

**2. Formation of the contract**

The order / commissioning by the customer is a binding offer. The offer is accepted by AK Fehmarn GmbH & Co.KG by sending an order confirmation.

Unless otherwise specified in the offer, an offer from AK Fehmarn GmbH & Co.KG can be accepted in writing or electronically (email or fax) within 4 weeks. If there is no acceptance within 4 weeks, the offer expires.

**3. Prices and terms of payment**

Services of AK Fehmarn GmbH & Co.KG are calculated according to working hours, travel expenses incurred, in individual cases accommodation costs as well as used materials.

The estimated working time in the offer or in the order confirmation is an estimate; the number of hours actually worked will be invoiced.

Waiting times for which AK Fehmarn GmbH & Co.KG or the third parties commissioned by AK Fehmarn GmbH & Co.KG are not responsible (such as weather conditions, poor access roads/crane parking area (crane spaces must be compacted), wheel seats/shafts/bearing seats which - despite all caution - can get peeling marks or seizure marks during disassembly, unforeseen technical problems) are at the expense of the customer and can be invoiced separately.

For unforeseen special work and additional services not included in the offer, AK Fehmarn GmbH & Co.KG will charge € 72,00 net/hour per person for workers. For weather-related or technologically-related downtimes for which AK Fehmarn GmbH & Co.KG is not responsible, AK Fehmarn GmbH & Co.KG charges 70% of the agreed hourly rate. Waiting times for which AK Fehmarn GmbH & Co.KG is not responsible, such as waiting for trucks for loading and

unloading, do not fall under the aforementioned regulation and are therefore charged at € 72.00 net/hour per person if the same trucks were ordered/provided to by the customer. When calculating the services, the prices for parts used, materials and special services as well as the prices for work, travel expenses and transport costs must be shown separately. Insofar as the services are listed individually in the offer or in the order confirmation, a reference to them is sufficient, whereby only deviations in the scope of services are to be specifically listed.

The statutory sales tax is not included in the prices; it is shown separately on the invoice at the statutory rate on the day of invoicing.

Unless otherwise stated in the order confirmation or the offer, the service provided by AK Fehmarn GmbH & Co.KG is due for payment without deduction within 10 calendar days of the invoice date. After the due date, interest on arrears will be charged at a rate of 9 percentage points above the interest rate of the European Central Bank per annum, provided the customer is a company within the meaning of Section 14 of the German Civil Code; otherwise interest on arrears will be charged at a rate of 5 percentage points above the base interest rate of the European Central Bank per annum.

The customer must check an invoice from AK for accuracy within a period of 14 days after receipt of the invoice. After this point in time, objections to the invoice are excluded if the customer is a company within the meaning of Section 14 of the German Civil Code.

Additional work to be carried out will be requested in writing from the customer and only carried out after his confirmation.

The customer can only offset claims that are undisputed or legally established.

#### **4. Proceeds from the sale of old parts**

In the case of scrap proceeds, the reversal of the tax liability applies in accordance with § 13 b paragraph 2 number 7 and 11 of the Value Added Tax Act in conjunction with Annex 3 and Annex 4 to the Value Added Tax Act. Scrap proceeds are always billed according to weighing slip, current monthly price and net.

#### **5. Customer's duty to cooperate**

The customer must support the service staff of AK Fehmarn GmbH & Co.KG or the service staff of third parties commissioned by AK Fehmarn GmbH & Co.KG in carrying out the agreed services to the best of their ability and at their own expense. In particular, the staff must be provided free of charge with auxiliary staff, tools, technical documentation and electricity, including the necessary connections and other access points, as far as they are required to complete the order.

The customer must take the necessary action to protect people and property at the place of service. The customer must also inform the service staff of AK Fehmarn GmbH & Co.KG or of

the third parties commissioned by AK Fehmarn GmbH & Co.KG about existing special safety regulations, insofar as these are of importance for the service staff.

For the services to be provided at the customer's site, the customer must name and make available a contact person who is responsible, competent and authorized for all questions relating to the completion of the order.

## **6. Time of performance**

In addition to the timely receipt of all relevant documents, compliance with agreed deadlines for the provision of services also requires compliance with the terms of payment and other obligations of the customer.

If AK Fehmarn GmbH & Co.KG informs the customer of a specific deployment date, this is not a fixed date, since it may not be possible to provide the service due to poor weather conditions, for example. Therefore, AK Fehmarn GmbH & Co.KG cannot guarantee that the agreed service will be carried out on a specific date.

If no specific date for the provision of the service has been agreed, AK Fehmarn GmbH & Co.KG will notify the customer of the date at least 10 days before the service is provided. If the customer does not want the services to be provided on the specified date, the customer is obliged to notify AK Fehmarn GmbH & Co.KG at least 5 days before the announced date for the provision of the services. If this notification is not made or not made in time, the agreed price is due in full.

If the performance of the service owed by AK is delayed due to force majeure through no fault of AK Fehmarn GmbH & Co.KG, for example unannounced power cuts, lack of official permits for heavy transport, strike, lockout, official orders, accidents or storms, the period of performance will be extended appropriately.

If the customer suffers verifiable damage as a result of the delay by AK Fehmarn GmbH & Co.KG, the customer is entitled to demand a flat-rate compensation for the delay. This amounts to 0.5% for each full week of delay, but no more than 5% of the price for the service for that part on which AK Fehmarn GmbH & Co.KG has to provide service and which cannot be used in time due to the delay. Further claims are excluded; this does not apply to damage resulting from injury to life, limb or health that is based on an intentional or negligent breach of duty by AK Fehmarn GmbH & Co.KG or a third party commissioned by AK Fehmarn GmbH & Co.KG.

If the customer is in default of acceptance or culpably violates other obligations to cooperate, AK Fehmarn GmbH & Co.KG is entitled to demand compensation for the damage incurred, including any additional expenses. Further claims or rights remain reserved.

## **7. Construction Diary**

AK Fehmarn GmbH & Co.KG keeps a construction diary. This construction diary must be confirmed to AK Fehmarn GmbH & Co.KG daily by an authorized employee of the customer in writing or by e-mail.

All work carried out by AK Fehmarn GmbH & Co.KG and downtimes are noted in the construction diary.

## **8. Certificates**

On request, AK Fehmarn GmbH & Co.KG will send the customer all existing certificates such as GWO, first aid, fire protection or similar.

## **9. Acceptance**

The customer is obliged to accept the service provided by AK Fehmarn GmbH & Co.KG. If the service provided proves not to be in accordance with the contract, AK Fehmarn GmbH & Co.KG is obliged to remedy the defect in accordance with number 8 of these General Terms and Conditions, provided this is possible for the respective service. This does not apply if the defect is irrelevant to the interests of the customer or is based on a circumstance that is attributable to the customer. If there is an insignificant defect, the customer cannot refuse acceptance.

If acceptance is delayed without AK Fehmarn GmbH & Co.KG being at fault, acceptance shall be deemed to have taken place 2 weeks after notification of the completion of the service rendered.

Upon acceptance, AK Fehmarn GmbH & Co.KG's liability for recognizable defects ceases unless the customer has reserved the right to assert a specific defect.

## **10. Retention of Title, Transfer of Title**

AK Fehmarn GmbH & Co.KG retains ownership of the purchased items or all accessories, spare parts and replacement parts used until all payments from the respective contractual relationship have been received. If the buyer breaches the contract, including default in payment, AK Fehmarn GmbH & Co.KG is entitled to take back the goods.

Dismantled old/defective devices become the property of AK Fehmarn GmbH & Co.KG and are kept for 2 weeks from the time of dismantling for any inspections and reports. After this period has expired, the old/defective parts will be sent for refurbishment or scrapping.

## **11. Warranty**

The prerequisite for any warranty claims by the customer is the proper fulfillment of all inspection and notification obligations owed under Section 377 of the German Commercial Code.

In the case of justified complaints, AK Fehmarn GmbH & Co.KG is entitled to choose whether to remedy the defect or to deliver new, defect-free goods.

If the supplementary performance fails, the customer is entitled to choose between canceling the contract or demanding a price reduction. Pursuant to Section 440 sentence 2 of the German Civil Code, rectification is deemed to have failed after the second attempt, unless something else arises from the nature of the item or the defect or the other circumstances.

The warranty does not cover natural wear and tear or damage that occurs after the transfer of risk as a result of incorrect or negligent handling, excessive stress, unsuitable equipment or due to special external influences. The warranty does not relate to wearing parts that are subject to functional wear and tear, unless there are production or material defects. If the customer or third parties make improper changes or repair work, there is no guarantee for these and the resulting consequences.

Insignificant deviations from the agreed quality or insignificant impairments of usability do not constitute defects in the delivered item.

The customer's warranty claims expire after 12 months from acceptance.

## **12. Liability**

AK Fehmarn GmbH & Co.KG is liable in accordance with the statutory provisions if the customer asserts claims for damages based on intent or gross negligence. In all cases of simple negligence, the liability of AK Fehmarn GmbH & Co.KG is limited to the foreseeable damage that is typical for the contract.

Liability for injury to life, limb or health remains unaffected; this also applies to mandatory liability under the Product Liability Act.

Unless otherwise regulated above, liability is excluded, this applies in particular to financial losses, other consequential damages and lost profits.

## **13. Privacy**

As part of the cooperation between AK Fehmarn GmbH & Co.KG and the customer, AK Fehmarn GmbH & Co.KG may have access to the personal data provided by the customer. By placing the order, the customer agrees that AK Fehmarn GmbH & Co.KG may use the data provided by the customer to fulfill the contract or to carry out pre-contractual measures as follows:

- Sending of offers, order confirmations, invoices and invoice corrections in print or electronic form.
- Sending information about all topics necessary in the current business process by post, telephone or e-mail.

- Employees involved in the business process may be contacted for these purposes and their data may be archived until further notice.
- Personal data may, insofar as the contractual relationship requires it, be passed on to third parties.

AK Fehmarn GmbH & Co.KG will only use personal data for the contractually specified purpose.

AK Fehmarn GmbH & Co.KG is obliged to take action to be taken in accordance with Article 32 GDPR to ensure the security of the processing and to achieve a level of data protection appropriate to the risk and to demonstrate this to the customer on request.

AK Fehmarn GmbH & Co.KG supports the customer with regard to the fulfillment of the rights of the data subject in accordance with Article 12 to Article 23 GDPR and the obligations incumbent under Article 32 to Article 36 GDPR at the first request of the customer.

AK Fehmarn GmbH & Co.KG agrees that the customer is entitled, in principle by appointment, to check compliance with the regulations on data protection and data security himself or through third parties commissioned by him.

AK Fehmarn GmbH & Co.KG undertakes to maintain confidentiality when processing the customer's personal data in accordance with the order.

AK Fehmarn GmbH & Co.KG assures that all persons involved in the processing of personal data have committed themselves to confidentiality and the protection of data protection during the time of their work and after the end of the employment relationship in a suitable manner.

According to Article 7 paragraph 3 of the GDPR, the customer has the right to revoke the consent.

The customer has a right of objection under Article 21 GDPR.

#### **14. Final Provisions**

An assignment of claims against AK Fehmarn GmbH & Co.KG that are not monetary claims is not permitted.

Changes, additions and ancillary agreements to the contract and these GTC must be in writing.

Should a provision of these General Terms and Conditions be or become invalid or should a gap be found, the validity of the remaining provisions shall not be affected. In this case, the parties undertake to agree or achieve the intended purpose by agreeing on a different arrangement.

German law applies to the legal relationships between the parties to the exclusion of the UN Sales Convention.

Place of jurisdiction is Lübeck, Germany.