

§ 1 Applicability of the General Terms of Purchase

1. These General Terms of Purchase of FME apply exclusively to any and all provision of goods, services and works by Supplier to FME.
2. FME does not accept any contradicting terms or terms deviating from these General Terms of Purchase or other limitations of Supplier, unless expressly agreed in writing by FME.
3. These General Terms of Purchase also apply to all future transactions with Supplier, even if their applicability has not again been expressly agreed.
4. These General Terms of Purchase also apply exclusively if FME accepts delivery or pays for the goods, services or works delivered by Supplier without reservation albeit being aware of contradicting or deviating terms of Supplier.
5. These General Terms of Purchase shall only be applicable vis-à-vis entrepreneurs within the Moroccan rules.
6. In case of a discrepancy between these General Terms of Purchase and deviating terms of FME comprised in other documents, these General Terms of Purchase shall prevail.

§ 2 Orders: Offer and Conclusion of Contract

1. Orders must be in writing to be legally binding. Orders placed orally or by telephone, as well as all ancillary agreements or subsequent amendments shall only be binding if and to the extent they are confirmed in writing by FME.
2. The Supplier must include the FME order number and the purchaser(s) in full in all written communication with FME, including delivery notes and invoices.
3. Supplier shall confirm each order of FME. If Supplier does not confirm an order within Three (3) working days after receipt of the order from FME, FME shall no longer be bound by the order. Supplier's acceptance of an order thereafter shall be deemed a new offer by Supplier, FME reserves the right to accept or reject such offer.
4. Deviations and additions in the confirmation of an order made by Supplier shall not bind FME. § 1(2) shall apply accordingly.
5. Supplier shall review the order without undue delay for noticeable errors, ambiguities, incompleteness and unsuitability of the specifications chosen by FME for the intended use and shall inform FME without undue delay of any necessary modifications or clarifications of the order.
6. Unless explicitly agreed otherwise, Supplier's confirmations, offers and cost estimates shall be free of cost for FME.

§ 3 Prices

1. All prices specified in the order shall be in Moroccan Dirhams exclusive of VAT, unless explicitly stated otherwise in the order.
2. If not agreed otherwise, the prices specified in the order are fixed prices and include delivery DDP (Delivered Duties Paid – Incoterms 2010) FME including packaging, transport, carriage and insurance. Any additional claims of Supplier, for example because of increases in labour or material costs, technical improvements (provided that they were not made upon explicit request of FME), etc. are excluded.
3. If FME accepts to bear the costs of carriage and packaging, unless otherwise agreed in writing, Supplier shall provide for the most cost-effective shipping, this shall not affect the place of performance. Collection charges shall be borne by Supplier.
4. Supplier shall take back the packaging at its own expense and shall dispose of it in a lawful, orderly manner.

§ 4 Payment Terms

1. Unless otherwise specified in the order, payment will be made by means of payment selected by FME.
2. Unless otherwise agreed in writing, payment shall be made within sixty (60) days of delivery.
3. If the parties agree advance payments by FME, in order to secure FME's claims against Supplier, FME shall be entitled to receive upon request an unconditional, irrevocable and absolute bank guarantee by a credit insurer or financial institution registered in the European Union, waiving the defence of contestability, set-off and the guarantor's defences of advance claim, as well as the right to deposit, with a term until complete fulfilment of the delivery and performance obligations by Supplier.
4. Supplier shall not be entitled to firstly credit payments by FME against older debts or costs and interest.
5. FME shall be entitled to the rights of retention and set-off in accordance with statutory law. Payment shall not be deemed to constitute acceptance by FME of the delivery as being in accordance with the contract.
6. Supplier may set off only those claims which are uncontested or have been determined in a legally binding manner, and may only assert a right of retention for such claims, which are uncontested or have been determined in a legally binding manner and which are based on the same contractual relationship.
7. Payments to Supplier by FME will be made wire transfer only. No cash payments will be made for products or services. All payments to Supplier will be made directly, and in the country where Supplier performed the work for which [he/she] is being compensated, or in the country of Supplier's home address.

§ 5 Delivery Dates / Delivery Periods / Penalty / Partial Delivery / Dangerous Goods / Subcontractors

1. Delivery dates set out in the order are binding. The delivery periods commence as of the date of the order. Supplier's reservation of a timely self-supply is excluded. The receipt of the delivery items at the place of destination indicated by FME shall be decisive for meeting delivery deadlines.
2. Conditions by which Supplier reserves unreasonably long or insufficiently specified periods for performance are invalid. This also applies to setting of additional grace periods for performance.
3. Supplier shall inform FME promptly in writing of any events occurring or coming to its attention which could lead to a delay in delivery stating the reasons and the expected duration of the delay.
4. In case of delay in delivery, FME shall be entitled to the statutory remedies without restriction. The unconditional acceptance of the delivery items shall not be deemed to constitute a waiver of these rights by FME.
5. In case of delay in delivery, FME shall furthermore be entitled to claim a contractual penalty of 0.5% of the net price of the order for every full week of delay. The penalty shall be limited to 10% of the net price of the order. Supplier may submit evidence that there has been no or only minor damage and therefore the penalty is unreasonable. FME shall be entitled to the penalty in addition to the right to demand performance. In case FME accepts late delivery, FME is entitled to the penalty even if FME has not reserved this right when accepting the delivery. FME will declare such reservation of rights at the latest with final payment. Additional damage claims beyond the penalty shall remain unaffected. However, the penalty shall be set off against such damage claims.
6. Partial performance or delivery is only permissible with FME's prior written consent.
7. Acceptance of a partial delivery to which FME has not consented, shall not affect FME's rights in respect of the total delivery, even if FME has not expressly reserved these rights on acceptance.
8. Supplier shall always mark, pack and ship its products according to nationally and internationally applicable provisions. The accompanying documents shall show the risk category as well as any further particulars required by the appropriate transport regulations.
9. Sub-contraction by Supplier requires FME's prior written consent. Supplier shall in any event be liable for its subcontractors' acts and omissions as it is liable for its own acts and omissions.

§ 6 Invoicing

1. Invoices shall not be enclosed with the delivery. Invoices shall correspond with the designation and sequence of the order. Each order position must be invoiced separately, as combined invoiced cannot be processed by FME.
2. The invoice shall show VAT separately, and must include invoice number, each individual order number, quantity, price, delivery date (service date), other classification features (in particular the FME-article number), a copy of the delivery note and the FME purchaser(s). Handwritten additions on original receipts must provide a signature and company stamp, as otherwise no payment can be made for tax reasons. In case the invoice comprises more than one item, the FME order number must always appear.
3. If services are invoiced based on measurement or effort, Supplier shall provide, together with the invoice, all documentation (measurement lists or time sheets confirmed by FME) necessary for proper auditing. Invoices for partial deliveries shall be marked correspondingly.
4. Invoices which do not meet the above listed requirements cannot be processed by FME, and FME is not in default with payment in case of non-payment of invoices that do not comply with the above requirements.

§ 7 Transfer of Risk / Advice of Dispatch

1. Unless otherwise agreed in writing, delivery shall be made DDP [FRESENIUS MEDICAL CARE NORD, OUEST ET CENTRE AFRIQUE S.A. Logi Parc Bouskoura, dépôt L7, douar legouassem, bouskoura Casablanca] INCOTERMS 2010 and at Supplier's risk. The risk passes to FME only upon the proper delivery.
2. Dispatch notes must be sent to FME in triplicate on the day of dispatch at the latest, stating the order number and order date. Shipment is to be evidenced by a duplicate consignment note. Amounts to be credited for packaging material shall be stated in the dispatch note or the delivery note.

§ 8 Conditions of performance – Procedure

1. Unless otherwise agreed in writing, if preparation of workshop or design drawings is necessary for the fulfilment of orders, which are not included in the drawings and data supplied by FME, Supplier shall prepare these free of charge.

2. Following completion thereof, the drawings are to be delivered to FME, for examination and approval.
3. Unless explicitly requested otherwise by FME, local standards, the safety regulations of local public authorities and employers' liability insurance associations are to be observed for all deliveries and services supplied.

§ 9 Special Regulations for Works

1. Acceptance

- a. If applicable, supplier will inform FME of the completion and readiness for acceptance in writing. The parties will then jointly conduct the acceptance test.
- b. An acceptance certificate shall be prepared which shall document all known defects at the time of the acceptance. The acceptance certificate shall be signed by the parties.
- c. Acceptance may be refused in the case of material defects. A multitude of minor defects shall constitute a material defect.
- d. The productive utilisation of Supplier's work product / services shall not constitute acceptance by FME.
- e. For delivery items (e.g. boiler, pressure vessel, etc) which require technical inspection and approval by relevant authority, Supplier shall fulfil all requirements for the timely approval at its own expense and provide to FME the required certificates of inspection. FME reserves the right to inspect the delivery items during production and/or prior to transport at Supplier's site. Such prior inspection does not constitute an acceptance and shall not affect the warranty claims of FME pursuant to § 15.

2. Limitation Period

In deviation from § 15(7) the limitation period for claims based on defects shall commence with the date of acceptance.

3. Additional Provision for Print Products

- a. Supplier must send proof for clearance to FME. Supplier shall start printing only upon FME's written imprimatur. In case Supplier does not comply with this obligation, FME reserves the right to reduction of the fees or cancellation of the contract.
- b. Data carriers and films are the property of FME. Upon request, Supplier will hand back to FME within two (2) days of FME's request the complete printing documents in proper, ready for print, condition.
- c. Supplier must archive print data for a minimum of five (5) years after completion of the order.

§ 10 Property Rights

1. FME shall retain all proprietary, intellectual and industrial property rights and knowhow in any specifications, drawings, procedures, process sheets, data carriers, films, and the like made available to Supplier. Supplier shall ensure that such items are always identified as the property of FME and must be returned to FME immediately on demand. In addition, § 11(1) shall apply.
2. Supplier guarantees that no third party rights, in particular copyrights and industrial property rights in Morocco, Europe and the USA, are infringed in connection with its delivery.
3. In the event that FME becomes subject to claims by a third party on account of an (alleged) infringement, Supplier shall immediately upon request indemnify FME against these claims. Supplier's duty to indemnify shall cover all expenses of FME arising of or in connection with the claims asserted by a third party.

§ 11 Rights to work results / use rights

1. FME acquires the exclusive ownership of all work results arising in connection with the works or services provided by Supplier, including any draft materials, at the moment of their creation in their respective processing status.
2. Furthermore, FME acquires exclusively all intellectual property rights of use and exploitation, industrial property rights, and any other permission to publish, copy, exploit in such work results including regarding any legal position with regard to ideas, drafts and creations at the moment of their creation.
3. The aforementioned intellectual property rights entitle FME irrevocably to exclusively use and exploit the work results for all known and yet unknown types of use, unlimited in time, scope and space, for all commercial and non-commercial purposes. FME is entitled to use, distribute, copy, disseminate and make available to the public the original and copies of the work results in any form without any restriction. FME shall furthermore be entitled to edit and modify the work results and to use, copy and distribute the results thereof. The use rights in software include the object and the source code of such software. FME is entitled to sublicense or transfer the aforementioned use rights partially or in total, limited or unlimited in time, either for consideration or gratuitously to third parties, without any compensation for Supplier.
4. Supplier shall refer whenever suitable on a work result, in particular with regard to print products, to FME's exclusive, irrevocable and unlimited in time, scope and space use and exploitation right by including "© xxxx FME", where xxxx stands for the year of creation of the work result.
5. If Supplier commissions a subcontractor, agent, or other third party with the supply, services or works, Supplier ensures the unimpaired granting of the use and exploitation rights in accordance with this § 11, and Supplier shall procure the required rights from the third party at its own cost. FME shall be entitled to review the relevant sections of the contracts in place with the third party, and Supplier shall make them available to FME upon FME's request.
6. With regard to other services and goods, Supplier will grant to FME at a minimum the use and exploitation rights required by FME for the unimpaired use of the delivered item for the purposes agreed in the order. This shall in particular include the right to copy, modify, distribute and make publicly available.

§ 12 Confidentiality

1. Supplier shall keep FME's internal and business information and materials, provided to Supplier in the course of the performance of the order, including in particular with regard to current and future research- and development work, FME's business activities and any other information with regard to which FME has an interest in confidentiality ("Confidential Information") in strict confidence and not make available to any third party without FME's prior written consent. Supplier shall return to FME without undue delay after completion of the order any documents and materials containing Confidential Information.
2. Supplier shall in particular refrain from commercially using or exploiting or having a third party exploit Confidential Information.
3. Supplier shall ensure that its employees, subcontractors, agents, and any third party abide by the aforementioned obligations, regardless of the terms of cooperation between Supplier and the third party. Supplier shall impose on the relevant persons confidentiality obligations similar to the aforementioned obligations.
4. The obligation to confidentiality and the prohibition to use shall not apply to information with regard to which Supplier can prove that it had been published or was already in the public domain (was publicly known, state of the art, etc.) prior to conclusion of the order with FME. The obligation to confidentiality shall end when and to the extent Confidential Information becomes public domain in the course of or after the performance of the order.
5. The confidentiality obligation shall survive five (5) years from the date of completion of the order.
6. Supplier shall not refer to the business relationship with FME without FME's express written permission. Display of equipment, which has been manufactured for FME, at trade fairs requires FME's prior written consent.

§ 13 Global Code of Conduct for Business Partners / Compliance with Legal Provisions / Supplier declaration

1. Supplier shall comply and undertakes that the Supplier's affiliates, comply with the Fresenius Medical Care Global Code of Conduct for Business Partners ("FME CoC BP"). The current version may be downloaded from the FME website <https://freseniusmedicalcare.com/en/about-us/our-suppliers/> or requested from FME. Supplier shall establish adequate processes to ensure that all of its suppliers and subcontractors comply with the FME CoC BP or comparable standards.
2. Supplier shall disclose the presence of conflict minerals in the work results or any component or material incorporated in the work results, in accordance with the Dodd-Frank Act Section 1502. Performance of this disclosure shall include submission of a completed EICC-GeSI questionnaire annually to the FME no later than 31 January in each calendar year during the term for all work results delivered in the prior calendar year that contain conflict minerals; and due diligence effort in a reasonable country of origin inquiry (RCOI), conducted per OECD guidance, for the same work results. Accurate and complete documentation of the due diligence shall be maintained and made available to the or a 3rd party auditor acting on FME's behalf, on request.
3. Supplier shall provide a valid supplier declaration for the current calendar year including customs tariff and country of origin at the request of FME, Supplier shall provide a valid supplier declaration for the current calendar year including customs tariff code and country of origin information for items delivered. Supplier undertakes to immediately inform FME if provided supplier declarations are no longer valid.

§ 14 Anti-Corruption Clause

As stated in the Fresenius Medical Care Code of Ethics and Business Conduct, FME upholds the values of integrity and lawful conduct, especially with regard to anti-bribery and anti-corruption. Fresenius Medical Care upholds these values in its own operations, as well as in its relationships with business partners. FME's continued success and reputation depends on a common commitment to act accordingly. Together with FME, the Supplier commits to uphold these fundamental values by adherence to applicable laws and regulations.

Supplier represents that it has read the Fresenius Medical Care Code of Ethics and Business Conduct (Code of Conduct) and the Business Partner Compliance Brochure (Business Partner Compliance Brochure) available on the Fresenius Medical Care website. Supplier confirms to understand and agrees to adhere to the principles contained therein.

§ 15 Sanctions / Export Controls / Customs

1. Information on FME's Trade Governance standards is available at: <https://www.freseniusmedicalcare.com/en/trade-governance>
2. Supplier complies with all statutory, regulatory and industry-specific requirements relevant for the delivered goods and shall take any measures and, in particular, shall provide FME with any required information required in that regard. Supplier will inform FME without delay, if a delivery item is subject to import or export restrictions under national or any other external trade law in whole or in part.
3. In particular, Supplier undertakes to comply with applicable trade laws and regulations, such as economic sanctions laws and regulations ("Sanctions"), laws and regulations governing the export and re-export of controlled items and services ("Export Controls") and customs laws and regulations.
4. Supplier confirms that it is not targeted by any applicable Sanctions, and to the best of its knowledge, that it is not represented by or acting on behalf of a person subject to applicable sanctions. In case Supplier is a legal entity, Supplier also confirms to the best of its knowledge that it is not owned or controlled, directly or indirectly, by a Person subject to applicable Sanctions.
5. Supplier shall inform FME immediately without delay in case any of these confirmations are no longer valid.
6. Supplier shall inform FME immediately without delay, in case a delivery item is subject to import or export restrictions under applicable trade laws/Export Controls.
7. FME has the right, at its sole discretion, to immediately suspend any order, transaction or the performance of any obligation towards Supplier, without incurring any damages, in case the performance of FME's obligations would violate applicable Sanctions and/or Export Controls. Furthermore, FME has the right, without incurring any damages, to immediately terminate or cancel any order in case Supplier's confirmations under this § 15.5 are materially incorrect.

§ 16 Customer Protection

1. Supplier grants FME customer protection in respect of each customer, about which Supplier was informed by FME, for a period of two (2) years from the date of the newest order with Supplier by FME on behalf of such customer.
2. Direct inquiries of such customers are to be passed on to FME by Supplier.
3. Exempt from such customer protection are regular business relations between Supplier and such FME customer, which can be shown to have already existed prior to the first order from FME.

§ 17 Claims for Defects

1. Supplier warrants that all delivered products are free from material defects and defects in title and comply with the state of the art of science and technology and the applicable standards, legal provisions and the rules and regulations and guidelines of public authorities and professional associations. Any deviation from the above requires FME's prior written approval. Such approval shall not limit Suppliers' liability for defects.
2. If Supplier has any concerns in respect of the type of execution requested by FME, Supplier shall notify FME thereof in writing without delay.
3. FME shall notify Supplier of obvious defects of the delivered goods without delay, as soon as such defects are detected in the course of the orderly business processes, however no later than ten (10) working days from the receipt of the delivery. In case of hidden defects FME will notify Supplier in writing at the latest 10 working days from the date of detection of such hidden defects.
4. In case of defects, FME shall be entitled without restriction to the statutory claims. Generally, FME is entitled to select the manner of subsequent performance. Supplier may only refuse the remedy requested by FME, if it is only possible at disproportionate costs. Supplier is obliged to bear all expenses required in order to eliminate the defects or to provide a replacement delivery. Supplier shall bear the costs of testing and rectification (including the costs of fitting and removal), even if it transpires that there was in fact no defect.
5. FME's right to claim damages pursuant to the statutory provision is expressly reserved.
6. In case of imminent danger or particular urgency, FME shall be entitled to remedy a defect at Supplier's expense, after having properly notified Supplier, unless it would have been possible to give Supplier an opportunity to remedy the defect.
7. The period of limitation for claims based on defects is three (3) years as of delivery. If Supplier eliminates the defect by replacing the delivery with one free from defects, the period of limitation starts anew with the delivery of the defect-free product.
8. The period of limitation for claims in connection with defects shall not expire prior to the expiration of the limitation period for claims by FME's customers against FME in connection with defects for products and services, which FME obtained from Supplier on behalf of such FME's customers for the intended resale, ends.

§ 18 Liability / Product Liability

1. Supplier's liability for damages shall be unlimited.
2. Supplier is liable for faults through its legal representatives, vicarious and performing agents as if they were its own faults.
3. If FME is held liable by a third party on the basis of product liability, Supplier shall be obliged to indemnify FME from such claims, to the extent that the damage resulted from defective contractual products delivered by Supplier. In cases of liability depending upon culpability, however, this only applies if Supplier is at fault. Insofar as the cause of the damage is within the scope of the responsibility of Supplier, Supplier shall bear the burden of proof that it was not at fault.
4. Supplier is obliged to take out adequate insurance coverage against all product liability risks, and to make the insurance policy available to FME for review upon request. If FME is entitled to further damages, these remain unaffected. Within this context Supplier shall indemnify FME for any costs pursuant to Moroccan rules resulting from or in connection with any recall campaign implemented by FME. To the extent feasible and reasonable, FME will notify Supplier concerning the content and extent of the recall to be implemented in advance and give it the opportunity to comment on the same. Claims under statutory law shall remain unaffected.

§ 19 Assignment of Claim / Collection Authorization / Retention of Title

1. Without prior written consent, Supplier is not entitled to assign his receivables against FME in whole or in part or to have a third party collect them.
2. The validity of a prolonged or extended retention of title or a current account reservation for Supplier is excluded. There are no third-party rights to the delivery items. To the extent agreed, Supplier is entitled to a simple retention of title to the delivered items, all rights to title are transferred to FME upon complete payment of the purchase price. Supplier may only ask for the return of the delivery item on the basis of retention of title, if it has withdrawn from the sales contract beforehand.
3. Any materials provided by FME to Supplier for performing the contract remain the property of FME. Processing or alterations by Supplier are undertaken on behalf of FME. If the materials provided by FME are processed or inseparably mixed with other items not belonging to FME, FME shall have the right to co-ownership of the new items in the same proportion as that of the value of the materials provided by FME (purchase price plus value added tax) related to the value of the other materials. In the case the new item of Supplier is to be regarded the main item, the parties hereby agree that Supplier shall transfer proportionate co-ownership to FME. Supplier shall hold the asset on trust for FME.

§ 20 Transfer of Contract / Change in Name

Supplier shall inform FME immediately of any transfer of contract by operation of law and any change of its company name.

§ 21 Place of Performance / Place of Jurisdiction / Applicable Law / Partial Invalidity

1. The place of performance is [FME's registered seat].
2. Subject to the following provisions in this sentence 2, [FME's registered seat] is the sole place of jurisdiction for all disputes arising directly or indirectly out of or in connection with the contractual relationship. However, FME shall be entitled to bring legal action against Supplier in any other competent legal court.
3. These General Terms and Conditions of Purchase and the entire legal relationship between FME and Supplier shall be governed and construed in accordance with the laws of Morocco without regard to the conflict of laws principle.
4. If a provision in these terms and conditions of business, or a provision within the scope of other agreements with Supplier, is or becomes ineffective, the effectiveness of all other provisions or agreements shall not be thereby affected. The ineffective provision will be viewed as being replaced by a relative provision, which most closely resembles the pursued economic and legal purpose of the ineffective provision.