

## GENERAL SALE CONDITIONS B2B

These General Sale Conditions shall apply to all agreement concluded by FEN GARMENTS S.r.l., via Carlo Cane n. 4, 21013 Gallarate (VA), VAT IT 03504590120 (hereinafter the "FEN") on their own for the sale of the products indicated on the website <https://mascherine.fengarments.com/> to legal entities, entrepreneurs or professionals, who carry out a professional economic activity (hereinafter the "Purchaser"), as well as the Purchaser 's order and FEN order confirmation and the Framework Agreement if signed.

### **Art. 1. Purchaser 's order and applicable conditions.**

**1.1.** The Purchaser 's order shall be valid if submitted, using FEN's form that can be downloaded from the website <https://mascherine.fengarments.com/>, in writing to FEN itself by email to the address [maschine@fengarments.com](mailto:maschine@fengarments.com).

**1.2.** Once accepted by FEN in the ways and forms referred to in the following art. 2, the Purchaser 's order shall be subject to any conditions contained in the single order proposal, if particular, and/or in the Framework Agreement, if signed, as well as to these General Sale Conditions, which replace and prevail on any previous agreement with the Purchaser.

**1.3.** Any possible request for changes of the specific sale conditions contained in a Purchaser 's order shall be submitted by the Purchaser in writing and shall be received by FEB within and not later than ten (10) days from the sending's date by the Purchaser of the Purchaser 's order itself, and shall be deemed as automatically rejected by FEN if not expressly accepted in writing in the order confirmation.

**1.4.** The Purchaser shall be directly and exclusively liable for any statements contained in its purchase order proposal, among others, to its personal and tax data, the quantity of products requested as well as the data for shipping.

### **Art. 2. Irrevocability of the purchase orders and execution of the agreement. Right to withdraw from the agreement.**

**2.1.** Each purchase order proposal issued by the Purchaser is irrevocable, pursuant to art. 1329 of the Italian Civil Code, for a period of ten (10) days from the date of its receipt by FEN; pursuant to art. 1326 and 1352 of the Italian Civil Code, the agreement is deemed to be executed in Gallarate, solely after FEN's express and written acceptance of the Purchaser 's order has been delivered to the Purchaser. Once the Purchaser 's order has been accepted by FEN as above stated, any possible amendments and/or additions and/or changes to said purchase order (even if relating to the range and/or quantity of the products ordered) shall be requested in writing to FEN, and shall be deemed as automatically rejected if not expressly accepted in writing by FEN within ten (10) days from the date of its receipt.

**2.2.** The Purchaser hereby expressly acknowledges and agrees that in relation to each single purchase order, even after the execution of the agreement, FEN shall at any time have the right to suspend and/or cease the manufacture and/or distribution of some products, as well as to substitute some models of the products with similar ones, as well as to modify their mix, their packaging, their denomination and their quantity, as well as to decide to use other commercial sales/distribution channels for some models of products. In any of such events, the Purchaser shall be timely informed in writing, through the order confirmation or also subsequently, but all the above shall neither entitle him to revoke its purchase order and/or to withdraw from and/or to terminate the agreement, which shall remain binding for the Purchaser, *mutatis mutandis*, nor shall entitle the Purchaser to claim for refunds, reimbursements, indemnities, damages of any kind whatsoever: the Purchaser hereby expressly and irrevocably waives since now any and all claims and objections in this regard.

**2.3.** FEN shall have the right to withdraw from the agreement executed with the Purchaser pursuant to art. 1373 of the Italian Civil Code, until the relative products have been delivered to the Purchaser: in this case, FEN shall only be required to reimburse the price if and to the extent that it has already been paid by the Purchaser, without any liability whatsoever toward the Purchaser and without having to pay the Purchaser any amounts as consideration for such withdrawal right and/or for its possible exercise, or for any other reason whatsoever.

### **Art. 3. Delivery and shipment of the products.**

**3.1.** Unless otherwise agreed by FEN and the Purchaser in writing in the order confirmation, the products shall

be delivered EXW Incoterms 2020.

**3.2.** In the event of no-delivery EXW Incoterms 2020 of the products, costs and risks of transport shall be divided between FEN and the Purchaser on the basis of the transport conditions agreed from time to time between the parties, it being understood that FEN shall choose at its sole discretion the carrier and/or freight forwarder for the transport of the products up to the place of destination indicated in the order confirmation. If the products are shipped, in whole or in part, at FEN's risks, in the event the products are lost, damaged, burnt-out and/or stolen – in whole or in part – as well as in the event of their unsuitability or non-usability due to any causes whatsoever, FEN shall only substitute the products with identical and/or similar ones or, should said substitution not be possible, FEN shall only reimburse the price of the products already paid by the Purchaser, it being understood that the Purchaser shall have no right to claim for any refunds, reimbursement, indemnities, damages of any kind whatsoever.

**3.3.** In any case, pursuant to art. 1510 of the Italian Civil Code, in any of the events set forth in the preceding art. 3.1 and 3.2, FEN shall discharge from its duty to deliver the products to the Purchaser by delivering them to the carrier and/or freight forwarder.

**3.4.** The delivery deadlines indicated in the purchase order proposal and/or in the order confirmation are not mandatory, unless their mandatory nature is expressly and specifically provided for in writing in the purchase order and/or in the order confirmation. In the event that the delivery deadlines for the products are specifically indicated as mandatory, FEN shall in any case have the right to postpone each delivery deadline, which FEN shall not comply with for causes beyond its control, including causes of force majeure and fortuitous events, such as, by way of example and without limitation: strikes, lockouts, disorders, riots, earthquakes, epidemics, exceptional national or international events and/or facts, impossibility to stock in supplies of raw materials or to deliver the products.

**3.5.** The products shall be packed according to commercial customs

#### **Art. 4. Failure to take delivery of the products.**

**4.1.** If the Purchaser refuses to take delivery, or on which the products have anyway become available, of the products at the place indicated in the order confirmation, the Purchaser shall be deemed in default from the date on which the delivery of the products has been offered, or the products have anyway become available, to the Purchaser. Furthermore, in the above said event FEN shall have the right to suspend or to terminate the deliveries of the products even if related to different agreements/orders, as well as to change the payment terms and conditions originally provided for in the order confirmation, without prejudice to FEN's right to claim in order to protect its rights in any manner whatsoever.

**4.2.** After fifteen (15) days from the date on which the delivery of the products has been offered, or on which the products have anyway become available, to the Purchaser, FEN shall have the right to terminate the agreement for a Purchaser breach by means of a simple written notice: in such an event, FEN shall have the right to dispose of the same products and the Purchaser shall pay FEN, as liquidated damages-penalty pursuant to art. 1382 of the Italian Civil Code and without prejudice to FEN's right to claim for additional damages, an amount equal to twenty percent (20%) of the value of the purchase order, as well as the Purchaser shall reimburse FEN for any and all the freight forwarder/carriage costs and expenses incurred by FEN. FEN shall in any case have the right to request the Purchaser to perform the agreement, without prejudice to FEN's right to be reimbursed for the costs and expenses incurred by FEN for the deposit of the products until the Purchaser takes delivery of them, and without prejudice to FEN's right to claim for additional damages.

#### **Art. 5. Vices, Defects and Waivers.**

**5.1.** The Purchaser shall check the quantity and the quality of, as well as the lack of any defects in, the products the same day of the delivery of the same products to the Purchaser. Any possible claims and/or complaints regarding the quantity and/or quality and/or defects and/or damages and/or nonconformities of the products shall be communicated in writing to FEN by registered letter with return receipt or PEC to the address [fengarmentssrl@pecimprese.it](mailto:fengarmentssrl@pecimprese.it) – or to the different PEC address in the commercial business register - to be sent, in order to avoid forfeiture, within and not later than eight (8) days from the date of the delivery of the products to the Purchaser.

**5.2.** In the event of an objectively valid and grounded claim, FEN shall only have the obligation to substitute the challenged products with identical and/or similar ones, it being hereby expressly excluded since now any

reimbursement whatsoever of any direct and/or indirect damages possibly suffered by the Purchaser: the Purchaser hereby expressly and irrevocably waives since now any and all claims and objections in this regard. Outside of what is indicated in this art. 5.2., FEN shall not recognize any other warranties including any warranties relating to the marketability, suitability of the products for purposes and particular purposes and/or the violation of third-party rights.

**5.3.** FEN shall not even be held liable for damage resulting from the choice made by the Purchaser and/or third parties for a particular use and/or use of the products other than that for which they are normally intended and/or indicated.

**5.4.** Under no circumstances FEN shall be liable for any loss of profit or gain, for any other type of economic damage for indirect, consequential, arising from or in relation to the use, conditions, possession, performance, maintenance, to the failure or delay in delivery of the products, even if FEN has been informed or has become aware of these circumstances.

**5.5.** The Purchaser hereby expressly and irrevocably waives since now the right to raise any claims against FEN, if consumers should raise claims against the Purchaser for possible defects in the products as per art. 131 of the Italian Legislative Decree no. 206/2005.

**5.6.** No dealer, agent or employee of FEN is authorized to make changes, extensions or additions to the warranty referred to in this art. 5, unless this results from a specific written authorization by FEN.

#### **Art. 6. Prices. Payment.**

**6.1.** The products' prices shall be those listed on the Purchaser's order and in the order confirmation by FEN as per art. 2 of these General Sale Conditions.

**6.2.** All payments shall be made at FEN's domicile in accordance with the payment deadlines, which shall always be deemed mandatory, and with the modalities, terms and conditions indicated in the order proposal and/or order confirmation or in the Framework Agreement, if signed. Any payments made to unauthorized persons and/or by unauthorized means shall be deemed as null and void and as never done, and consequently shall not release the Purchaser from its payment obligations.

**6.3.** For any delay in the execution of any payment due by the Purchaser, (i) FEN shall have the right to receive interest at the rate provided for by the Italian Legislative Decree no. 231/2002, unless the Purchaser gives FEN suitable and documented evidence that the delay in the payment is not due to causes attributable to its fault, and (ii) FEN shall have the right to suspend and/or not execute the deliveries of any other products ordered by the Purchaser, as well as to modify the payment's terms and conditions originally indicated in the order confirmation, without prejudice to FEN's right to start any actions in order to protect its rights and interests.

**6.4.** Interest for any delay in the execution of any payment due by the Purchaser shall automatically accrue starting from (i) the day following the expiry of the payment deadline indicated in the order confirmation, or (ii) the expiry of the deadline indicated in art. 4 of the Italian Legislative Decree no. 231/2002, if the order confirmation does not set forth any payment deadline.

**6.5.** The Purchaser shall also reimburse FEN for all the costs and expenses borne by the latter for the recovery of any amounts not timely paid by the Purchaser, the foregoing without prejudice to FEN's right to claim for additional damages.

**6.6.** Pursuant to art. 1462 of the Italian Civil Code, until the Purchaser has fully paid all the amounts due to FEN, the Purchaser shall not have the right to raise any claims and/or objections in order to suspend or delay any payments; in particular, but without limitation, the Purchaser shall not have the right to raise the objections provided for in art. 1460 and 1461 of the Italian Civil Code, or any objections arising from whatever claims and/or counterclaims of the Purchaser toward FEN.

**6.7.** Outside the cases expressly provided for in these General Sale Conditions, the Purchaser shall not be entitled to obtain a refund of the price already paid.

#### **Art. 7. Products' commercialization and ownership.**

**7.1.** Unless otherwise agreed in writing, the Purchaser shall not market the products in a sales format other than that which has been provided and/or indicated by FEN. Therefore, it is expressly prohibited for the Purchaser to separating the contents of the sales packages of the products supplied by FEN for the separate commercialization of the related content. Violation of this article shall give to FEN the right to terminate the agreement pursuant to and for the purposes of art. 1456 of the Italian Civil Code.

7.2. FEN shall retain the ownership of any products ordered by the Purchaser until the latter has paid in full for the relevant price: the foregoing notwithstanding, any and all of the costs and risks relating to the products shall be transferred to the Purchaser in accordance with the principles set forth in art. 3 hereof. On request of FEN, the Purchaser shall execute all documents and/or agreements and/or deeds necessary in order to enforce FEN's ownership of the products against any creditors of the Purchaser's.

#### **Art. 8. Termination clause.**

8.1. In addition to the specific provisions contained elsewhere in these General Sale Conditions, FEN shall have the right to terminate the agreement entered into with the Purchaser forthwith, without having to forewarn and/or place in default the latter, by sending the Purchaser a simple written notice, if any of the following events should occur:

- any of Purchaser's obligations, in whole or in part, undertaken under arts. 3.1,3.2, 4.1, 4.2, 6.2, 6.3, 6.5, 6.6, 7, 9 e 10 are not fulfilled. In this case, the Purchaser shall pay to FEN, as liquidated damages-penalty pursuant to art. 1382 of the Italian Civil Code, an amount equal to thirty twenty (20%) of the order value, without prejudice to FEN's right to claim for further damages, including without limitation the reimbursement of any freight forward/carriage/deposit costs and expenses borne by FEN.

#### **Art. 9. No assignment.**

9.1. Unless otherwise agreed in writing by FEN, The Purchaser shall not for any reason, directly or indirectly, assign and/or transfer howsoever to third parties the agreement entered into with FEN or sell products to third party resellers, even if they are retailers or stockists/wholesalers, as well as to sell the products in points of sale other than those indicated in the purchase order.

#### **Art. 10. Trademarks' protection. Certificates.**

10.1. FEN is the owner and holder, among others, of the FEN GARMENTS® trademark as well as its products on the site <https://mascherine.fengarments.com/> are CE certified for protection against Covid-19 (CE-PI-20200713-04-01-9A). The Purchaser hereby undertakes not to use the above indicated trademarks, signs, logos, names or other designations in any forms as well as the ownership certificates of FEN outside the hypotheses allowed by FEN and/or for any purposes without having obtained the prior written authorization of FEN and within the limits and the modalities provided for in such an authorization.

10.2. The Purchaser undertakes to indemnify and hold FEN harmless from any damages and/or detrimental consequence that shall arise from the violation by him (the Purchaser) of any intellectual and/or industrial property rights inherent to the products.

10.3. The Purchaser acknowledges that in case it should breach even only one of the provisions set forth in this article, FEN shall have the right not to execute the Purchaser's order, even if it is already confirmed by FEN.

#### **Art. 11. Applicable law and exclusive jurisdiction. Election of domicile.**

11.1. Each purchase order proposal issued by the Purchaser, the relative order confirmation by FEN, as well as the agreements between the Purchaser and FEN shall be governed solely by the Italian law, with the express exclusion of its provisions on the conflict of laws (*norme sulla legge applicabile*) and the Court of Busto Arsizio shall be the only and exclusive Court having jurisdiction for any and all disputes that may howsoever arise in connection with said orders/agreements, with the express exclusion of any alternative Court/Venue.

11.2. FEN and the Purchaser, for the purpose of any communications and notices to be given under the purchase order proposal and/or the order confirmation, as well as under the agreement possibly entered into between them, the parties hereby declare to be domiciled as indicated in the headings of the purchase order proposal.

#### **Art. 12. Effectiveness.**

12.1. These General Sale Conditions are available on <https://mascherine.fengarments.com/> as well as an integral part of the purchase order proposal. Sending the Purchaser the purchase order proposal duly signed according to in art. 1, the Purchaser therefore declares to have read and accepted these General Sale Conditions, which shall remain effective until they are expressly modified, resolved or replaced by means of a

written document.

**Art. 13. Force majeure.**

**13.1.** In addition to what is established in other articles of these General Sale Conditions, FEN shall not be held liable towards the Purchaser in the event of non-fulfilment of the obligations arising from the agreement, if such non-fulfilment is due to force majeure and not attributable to FEN. By way of non-exhaustive example, the following are considered causes of force majeure: epidemics, explosions, storms, floods, fires, accidents, war and/or threat of war, sabotage, insurrection, civil unrest, events and/or exceptional occurrences of a nature national or international, requisitions, restrictions, prohibitions, measures of any kind adopted by the Government and/or Parliament and/or local Authorities, provisions and/or rules relating to imports and/or exports and/or embargoes, strikes, blockades, unrest or trade union disputes, difficulties in finding raw materials and/or components of the production system and/or faults in the production system and/or power failure, difficulty in carrying out product deliveries.

**Art. 14. Data protection.**

**14.1.** FEN and the Purchaser declare and guarantee to fulfil, to the extent of their competence, all the obligations relating to the processing of personal data and deriving from the provisions of Legislative Decree no. 196/2003 and Legislative Decree no. 101/2018 and European Regulation no. 679/2016.

**Art. 15. Language.**

**15.1.** These General Sale Conditions are drawn up in Italian and English. In the event of disputes regarding the terms of the General Sale Conditions themselves, the Italian version prevails.

Gallarate, 02 October 2020