

GENERAL TERMS AND CONDITIONS OF SALE

These General Terms and Conditions of Sale shall apply to all products and/or services provided by FWD Lda, including those bought through any authorized representative. No sale term or condition different to those established by this document binds FWD Lda., unless agreed in a written document by an authorized FWD Lda. representative.

1. Quotations

It is considered as an integral part all drawings, specifications, notes or other documents provided with a quotation by FWD Lda.

Any quotation provided by FWD Lda or one of its representatives, cannot be interpreted singly as constituting an offer to the buyer, this only binds FWD Lda after it accepts the buyers order, subjected to the present terms and conditions of sale. To the effect that these terms and conditions of sale can be considered as a prior acceptance of the buyer's offer, such acceptance is expressly made in the condition of acceptance by the buyer, without exception. The acceptance of any product delivered in accordance to the present document will consider its acceptance as final. All quotations expire after 30 days, counting from the date of issue, unless explicitly expressed otherwise.

2. Orders modifications and alterations

Every request to modify orders shall be done in writing and will not bind FWD Lda, unless agreed upon in writing by an authorized FWD Lda representative. No other entity, including authorized distributors, dealers, integrators, agents, representatives, employees or service providers, is authorized to approve order modifications. FWD Lda reserves the right to improve, modify or partially substitute any product, notwithstanding any specific provision of a quote, as long as that modification or substitution maintains or contributes to improve the overall performance of the product.

3. Payment and currency

All invoices will be issued after ordering. 50% of the respective payment should be done at the orders acceptance date and 50% before the products expedition date, unless contrary written indication by authorized FWD Lda representative. All invoiced amounts must be paid in the currency specified in the invoice.

4. Custom duties, taxes and charges

Prices do not include any custom duties, charges, value-added taxes or other, except if expressly stated in the quotation. Any taxes (including, without any limitation, withholding taxes, added value taxes or other taxes), custom duties and brokerage fees applicable to amounts payable by the buyer, including any amounts (and applicable interest) charged on account, are solely responsibility of the buyer.

5. Delivery and risk of loss

Delivery dates indicated in the quotations are estimates and based on conditions at the time of the quotation. All product deliveries are FWD Lda's facility ex-works and transportation is at the buyers account, unless indicated otherwise by an FWD Lda authorized representative. The customs clearance of the products is the buyer's responsibility. The delivery of the products to a carrier equals the delivery to the buyer, and any risk of product loss passes to the buyer. Ownership of products only pass to the buyer upon full payment of the products supplied. Products can only be sold to third parties in the normal course of the business of the buyer, but until full payment, the buyer may not pledge or otherwise encumber the products.

The buyer commits to immediately communicate FWD Lda of: (i) any seizure or pawning of products by its creditors; (ii) any bankruptcy, insolvency, receivership or similar proceedings brought against himself; or (iii) any agreement established to benefit the buyer's creditors.

6. Returns

The returning of products implies its minimum devalue in thirty per cent (30%) of the selling price. The shipping and any return fees are the buyer's responsibility. The buyer is not permitted to return products that have been cut, modified or in any way modified by the client or FWD Lda without previous FWD Lda's written approval. The products must be subject to FWD Lda's inspection before any repairs, substitution or refund (if any) to the buyer. If FWD Lda determines that the returned product is not defective, the buyer agrees to pay FWD Lda the reasonable costs for inspection and tests with FWD Lda being able to re-send the product at the buyer's own cost and risk.

7. RMA Return Material Authorization

A Return Material Authorization number must be obtained by the buyer with FWD Lda, before returning any product. Not doing so implies its re-sending at the buyers own cost and risk. Failure to return the product within 30 days of the RMA date, means the full acceptance of the products and the withdrawal of the request for return.

8. Warranty

FWD Lda ensures that products delivered to the buyer are free from defects in materials and hand labour form the normal and proper use, in accordance with the FWD Lda written specifications for the product, enclosing a five year period starting from the delivery date. For the purpose of this warranty, 'FWD Lda written specifications' means, subject to the limitations and exclusions referred in section 13, or the specifications FWD Lda supplied to the buyer as part of a written quotation, before the buyer's order, or where such specifications have not been provided, the most current specifications published by FWD Lda, for the product in question.

9. Claims under warranty

All claims must be done in written, during the warranty period and within 30 days of the date in which the event giving rise to the claim under the warranty is discovered or should, reasonably, have been discovered. Complaints outside the warranty period are not allowed.

10. Transport for repairs under warranty

It's the buyer's responsibility the transport and packaging costs of FWD Lda products meant for repairing under warranty till they reach FWD Lda facilities. If warranty claim is deemed valid by FWD Lda, it will refund the buyer's reasonable transport and packaging costs

11. Repairs outside warranty

The buyer will pay the repairs or replacement of the product, outside the warranty period, at the prevailing FWD Lda prices.

12. Repairs under warranty or replacement

Every repair done under warranty is performed in FWD Lda's premises. FWD Lda, in its sole discretion, will repair or replace any product that presents a defect, during the warranty period, due to defective workmanship and/or materials, or refund at bought price (upon return of product, if requested by FWD Lda), provided that the buyer has reported such defect to FWD Lda, and after inspection, in its sole discretion, it considers such defective product under this warranty. All replaced products (or its components) become FWD Lda's property.

13. Warranty Limitations

The foregoing constitutes the sole and exclusive reparation to the buyers and the sole and exclusive responsibility FWD Lda is obliged to, for warranty breach. All warranties cease immediately if FWD Lda, in its sole discretion, determines that the products were object to unauthorised modification, misuse, abuse, neglect, accident, inadequate installation or application, alteration or negligence in use, storage, transport or handling.

Except with regard to the expressed warranty in section 8, the products are supplied on the basis of current state and there is no other warranty, expressed or implied, oral or in writing, by virtue of the law, contract or commercial use, in relation to them or any other product in connection with them, provided by FWD Lda or its authorized representatives. FWD Lda makes no implied warranty, nor does it endorse merchantable quality, satisfactory quality, merchantability, durability or fitness for a particular purpose. In particular and without limiting the foregoing, the products are not designed for use in environments that require fail-safe performance, such as operation of nuclear installations, aircrafts, navigation or communicating systems, air traffic, control, direct life support or diagnosis, machines or weapon systems, and FWD does not provide any warranty where the suitability of the products or services to environments that demand fail-safe performance, that the failure of the product can lead to death, personal injury or severe physical or environmental damage, although FWD Lda has provided any advice, counselling or services with respect thereto.

No statement except those mentioned in section 8, are considered a warranty provided by FWD Lda. Without limiting the generality of the foregoing exposed, no information included in any promotional material, drawing, specifications, notes or other data should be considered as a condition or assurance over the performance or suitability of any product for any use or application.

No agreement, varying or extending the warranty terms and limitations, will bind FWD Lda unless it is written and signed by an officer authorised to do so by FWD Lda.

FWD Lda does not provide any warranty to third parties products or any kind of services.

14. Contingencies

FWD Lda is not liable for product defects or delays, caused directly or indirectly by: war; force of arms; fire; the elements; riots; labour disputes; pickets or other work disputes; sabotage; civil unrest; accidents; any government action or inaction; prohibition or regulation (including, without limitation restrictions on imports/exports); third party transportation delays or failures; lack of, breakdown or inability to obtain any work, material or equipment utilized the manufacture of products covered by this contract; internet failure (ISP's included), or any cause beyond FWD Lda's control, whether or not such cause has similar or different effects than those listed. FWD Lda will immediately notify the buyer on the occurrence of any of these contingencies and the effect expected in the manufacturing and delivery of the products.

15. No authority to hire

The buyer acknowledges and agrees that no part other than FWD Lda, including but not limited to any FWD Lda representative, has the authority to bind FWD Lda, to provide guarantees on behalf of FWD Lda, or to incur in any liability, obligation or commitment on behalf of FWD Lda. The buyer will not provide any guarantee on behalf of FWD Lda or incur in any liability, obligation or commitment on behalf of FWD Lda.

16. Limitations

The buyer acknowledges and agrees that all risks concerning the performance and results of the products are assumed by him, and agrees to indemnify FWD Lda, its affiliates, subsidiaries, agents, representatives, dealers and licensees, as well as employees, directors, agents and contractors of each, from any and all claims, actions, costs, losses and expenses (including reasonable attorney's fees) arising from the buyer's use or its costumers of its products or services, including without limitation, personal damage, death and material damage (whether tangible or intangible). Under no circumstance or under no legal theory, illicit act (including negligence), contract (including fundamental breach) or otherwise, FWD Lda, its affiliates, subsidiaries, agents, representatives, distributors or licensees or its officers, directors, employees, contractors or employees of any of them will have any liability to the buyer or any other person or entity, for any loss of revenue or profit, lost or damaged data, loss of time or product use, cost of recovering data or products, cost of products or services, third party claims or any other economic or commercial loss, severe property or physical damage or environmental damage or by any direct, indirect, incidental, especial, punitive, exemplary or consequent damage, even though FWD Lda has been warned on the possibility of such damages or such damages are foreseeable. The maximum aggregate liability of FWD Lda in any connection with the present agreement or products, whether in illicit act (including negligence), contract (including fundamental breach) or otherwise, shall not exceed the price paid by the buyer for the particular product or services.

17. Business base

The warranty, limited liability and the reparation to the buyer defined in this document are fundamental elements of the agreement between FWD Lda and the buyer. The buyer acknowledges and agrees that FWD Lda would not be able to provide such products and services with such competitive prices without these limitations.

18. Severability and waiver

In the event that any provision of these GENERAL TERMS AND CONDITIONS OF SALE would be unlawful or unenforceable, that provision shall be deemed withdrawn, the remaining others in full force and effect. No rights of any party established in these terms will be affected by any past negotiation, waiver, delay, omission or tolerance of any party.

19. Previous agreements

The present GENERAL TERMS AND CONDITIONS OF SALE constitute the whole agreement between buyer and FWD Lda, relative to these matters and substituting any other contained in previous quotations, orders and agreements, oral or written, including all pre-printed terms and conditions, to appear in the buyer's order forms, even if accepted by FWD Lda and govern future transactions between buyer and FWD Lda. No changes or modifications of these GENERAL TERMS AND CONDITIONS OF SALE will bind FWD Lda unless agreed in writing by its legal representative. The section titles are for reference only and will not affect the meaning or interpretation of these terms. These GENERAL TERMS AND CONDITIONS OF SALE are considered FWD Lda confidential information and can only be disclosed to the buyer's employees, contractors and financial or legal consultants who have a need to know to meet the buyer's obligation in this agreement. For added security, any terms or conditions contained in any order or other forms of communication by the purchaser, which are inconsistent with these GENERAL TERMS AND CONDITIONS OF SALE, shall be void and of no force or effect, despite FWD Lda acceptance of this order or other forms of communication.

20. Applicable Law

These GENERAL TERMS AND CONDITIONS OF SALE and the sale of any products will be governed by and interpreted in accordance with the laws of Portugal. Each party consents and submits to the exclusive jurisdiction of Porto, Portugal's courts.

21. Transmitting

The buyer cannot transmit to third parties any of its rights or interests in this agreement without prior written FWD Lda consent. Any attempt or alleged transmission of such rights or interests without the prior written FWD Lda consent will be considered null and with no effect.