

General Terms of Delivery

Falcom Wireless Communications GmbH

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I. General Provisions and Field of Applications

1. The following conditions apply exclusively for all our supplies and services, unless otherwise agreed expressly in writing. The customer's business terms and conditions will not be part of the contract and require no explicit rejection.

The customer's conditions apply only if and in as far as they have been recognised explicitly in writing.

The ineffectiveness of a clause or part of a clause does not invalidate the remaining part.

2. The supplier reserves all rights of ownership and copyright to quotations, drawings and other documentations (in the following called "documents") without limitation. The documents may be made available to third parties only after previous written agreement of the supplier and must on demand be returned immediately if the order is not placed with the supplier. Sentences 1 and 2 in this paragraph will also apply respectively to documentation of the customer, however, these may be made available to such third parties as are permissibly commissioned by the supplier to render supplies.
3. The customer will have the right, however, not exclusively, to use the software and its alterations, additions and the respective documentation with the agreed upon performance features on the agreed upon equipment. By using the software the customer will never obtain the ownership or any title to obtain the ownership on the software. The supplier remains the sole owner of all and any copyrights and trademark rights of the software. The customer may never change, rework, copy or duplicate in any other way the software without explicit written confirmation of the supplier. The customer is allowed to make two backup copies.
4. Partial deliveries are permitted, as long as this is not unreasonable for the customer.
5. Falcom Wireless Communications GmbH will be called "supplier" or "seller" in this document.
6. Supplies and services conducted by the supplier are also called "items", "goods", "articles" or "devices" in this document.

	Name / Name	Firma / Company	Datum / Date	Unterschrift / Signature
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II. Conclusion and Content of the Supply Contract

1. The quotations of the supplier are always subject to alterations unless a binding period of validity is stated. A supply contract is only then considered concluded, when the supplier expressly confirms in writing the customer's order, or the delivery is carried out without separate confirmation.
2. All contractual agreements e.g. individual arrangements and assurances as well as alterations and additions become valid only with a written confirmation.
3. The order is a binding offer. The supplier may choose to accept the offer by sending a confirmation of order within four weeks, or by supplying the goods to the customer within this period.
4. All details of the supplier's products, particularly the reproductions contained in brochures and leaflets; as well as product- and performance data are only approximations and are not guaranteed features. In respect of these only the agreements in the contract of supply are valid.
5. For deliveries outside Germany (Exports) only forwarders and carriers are used. Collection by the customer or its representative are never accepted.
6. The delivery deadline has been met if the object to be delivered has left the factory before the period has elapsed, or in cases where collection has been agreed upon and the readiness for dispatch has been announced in the same time. The timely and proper fulfilment of the duties by the customer is the precondition to the adherence to the delivery duties by the supplier, in particular payment on time if cash in advance is agreed upon (see Clause III, no 1).
7. If not agreed upon otherwise, the devices will be delivered with up to date types of hardware and software as defined by the supplier (standard device). Customized devices will be delivered only after presenting a product specification confirmed by the customer in writing. The customer only is responsible for the data containing in the product specification sheet.
8. All devices which are sold for the first time using the trademark of the supplier are registered and filed according to the ElektroG by the supplier. Any other devices, sold for the first time the customer is obliged to fulfil the rules and conditions of the ElektroG, especially the registration and periodically filing of the devices. All kind of such devices will never be filed or registered by the supplier for purposes of ElektroG.
9. The supplier is not responsible for providing, application or obtaining of domestic, local or national or industry specific approvals or homologations neither he covers the expenses for that.

III. Prices and Conditions of Payment

1. Prices are ex works excluding packaging, but Value Added Tax at the current rates has to be added. All costs of delivery including insurance and export legalization have to be borne by the customer, unless otherwise agreed to in writing.

The place of payment of the purchase price is the bank of the seller. The payment is considered to be made, when the due amount is shown on the seller's bank account. Each contract partner pays for the own (bank) expenses falling due with the payment.

The purchase price has to be paid in advance before delivery or by irrevocable Letter of Credit (LC). In case of customised products payment in advance or the presentation of the LC has to be made before start of production. Decisive for the date of shipment at payment in advance is the date the money arrives on the account of the supplier. These conditions are valid unless otherwise agreed to in writing.

2. The customer may only deduct debits which are mutually agreed on or have been legally binding established by law.



IV. Proprietary Rights

1. The seller reserves the property rights on the sold goods until all moneys due in accordance with the delivery contract have been paid. If the customer acts against the contract, especially at default of payment the seller has the right to take back the sold article and the customer is obliged to release the goods. The taking back of the sold article by the seller represents never a withdrawal from the contract only if the suppliers announces such withdrawal in writing expressly. After taking back of the sold article the seller has the right to make use of this goods. The profit such accrued has to be credited against the debits of the customer, whereby reasonable costs of usage are to be considered (deducted).
2. The customer has the duty to handle the purchased goods with care; furthermore he is bound to insure the goods sufficiently at purchase value against the risk of damage by fire, water and theft at his own expense. As far as maintenance and inspection works become necessary the buyer has to carry these out in time and at his own expense. On request the supplier has the right to visit the place of storage to conduct a stock-taking and label its goods accordingly.
3. In case of seizure or other interventions of third parties the customer has to notify the seller immediately in writing, to enable the seller to institute legal proceedings in accordance with Sec. 771 ZPO. In as far as the third party is unable to refund the seller with the legal and ordinary costs of a court case in accordance with Sec. 771 ZPO, the customer is liable for the costs accrued to the seller.
4. The customer has the right to sell the purchased goods within the scope of a proper business deal. However, he waives already now all claims against his buyer or third persons resulting from his sale to the extent of the amount of the final sum of the invoice (including VAT) in favour of the seller (FALCOM). This is independent from the fact whether the purchased item has been sold without treatment or after treatment. The buyer has the right to request payment also after selling the items to his purchasers or third parties. The right of the seller to request the money himself remains untouched by this arrangement. However, the seller is obliged not to request the money as long as the buyer fulfils his payment obligations by utilising the taken profits, does not fall into arrears, and especially no case application for a settlement or insolvency has been lodged, or he has stopped any payments whatsoever. In this case, however, the *seller* can request that the purchaser discloses to the seller the ceded claims and discloses the debtors of these claims, and furthermore discloses all details necessary for claiming the amount, as well as handing over all relevant documentation, and informs the debtors (third parties) of the cession.
5. The processing or re-shaping of the purchased item by the buyer is always carried out for the seller. In case the purchased item is integrated with other items not belonging to the seller, the seller obtains a co-ownership in the new item at a relation of the value of the purchased item (final sum of the invoice including VAT) compared with the other processed items at the time of processing. Furthermore, the same applies for the final item (i.e. the item resulting from processing) as does apply for the purchased item delivered under reservation.
6. In case the purchased item has been inseparable processed with other items which do not belong to the seller, the seller will become co-owner of the new item at the relation of the value of the purchased item (final sum of the invoice including VAT) compared with the other processed items at the time of processing. In case the processing (of the two items) has been carried out in a way that the item of the buyer can be regarded as the main object, it is agreed, that the purchaser renders a proportional co-ownership to the seller. In this case the buyer preserves the arisen sole- or co-ownership for the seller.
7. The purchaser cedes to the seller also the claims in respect of securing claims of the seller against a third party which might accrue by joining the purchased item with immovable property.
8. On request of the purchaser the seller is obliged to release securities to which he is entitled in so far as the liquid assets of the securities of the seller are surmounting the claims to be secured by more than 10 %. The seller may choose which of the securities are to be released.

V. Periods of Notice for Supply and for Arrears

1. The punctual receipt of all documents to be supplied by the customer, necessary approvals and clearances, especially drawings and duty specifications, as well as the adherence to the agreed upon methods of payment and other customer's obligations are a pre-condition to the keeping of the agreed delivery times. In case these preconditions are not met on time, the delivery times will be extended accordingly, however, this will not apply if the delay is attributable to the supplier.
2. In case of Force Majeure, e.g. interruptions to operations, transport delays, industrial actions such as strikes or lockouts, as well as non-delivery, incorrect or late delivery by the sub-suppliers for whatever reason, or other difficulties arising which are not attributable to the supplier, the supplier may postpone delivery by the length of time the interruption lasts including a reasonable restarting period. In case an interruption appears likely to a permanent hurdle, the supplier has the right to refuse to deliver the goods either in total or partially. In this case no claims may be made by the customer against the supplier. The customer is released from his corresponding obligations and the payments made will be returned to him.
3. Should the seller by his own fault get into arrear with the supply, the customer will have the right to demand a lump-sum compensation at a rate of 0.5 % of the value of the order per every full week of delay, but not more than a total of 5 % of the value of the relevant part of the order. The right is reserved for the supplier to prove to the customer that no damage or damage considerably less than claimed has arisen as a consequence of the arrears in supply.
4. Any claims for damages on the part of the customer which exceed the limits set in paragraph 3 are excluded in respect of late delivery, even when the supplier has been given an extended deadline by the purchaser. This will not apply in cases of malice or gross negligence has given rise to compelling liability, however, the burden of proof will be unchanged as far as the detriment of the customer is concerned. The right of the customer to withdraw after an unsuccessful completion of an extended deadline set for the supplier accompanied by the threat of refusal of the goods remains unaffected.
5. Should the customer be in arrears in respect of acceptance, or in breach of other co-operative obligations, the supplier has the right to claim compensation in respect of the damage accrued, including additional further expenses. In this case the risk associated with possible coincidental collapse or deterioration of the purchase item passes to the customer at the time he goes into arrears of acceptance.
6. If dispatch or delivery are delayed at customer's wish by more than one month after the supplier has informed about the readiness to deliver, the customer may be charged with a storage fee of 0.5 % of the value of the delivery goods for every started month, however, this may not exceed a total of 5 %. Notwithstanding, each of the two parties will have the right to prove higher or lower effective costs.

VI. Transfer of Risk

1. Unless the order confirmation states otherwise, supply has been agreed as ex-works (EXW).
It is agreed that in principal all devices have to be returned in the original packaging. This applies e.g. to sending for repair purposes or a warranty claim. The customer is bound to dispose of the packaging at his own expenses.
If the customer so wishes, the supplier will take out a transport insurance in respect of the delivery. The expenses of which are to be borne by the customer.
2. If for reasons attributable to the customer the dispatch or delivery, the start or carrying out of set-up or assembling, or the commissioning in the own factory, or the testing are delayed, or if the customer goes into arrears of acceptance for any other reason, the risk is transferred to the customer.

VII. Acceptance

Deliveries have to be accepted by the customer.

VIII. Warranty

1. The customer must inspect the delivered goods carefully as soon as they arrive at the point of destination. Precondition for fault claims by the customer is that the customer has strictly followed the required inspection and claim procedures in accordance with Sect. 377 HGB. At this point the goods have to be especially checked as regards condition, if necessary random tests have to be carried out. In the case of random tests it is a prerequisite that these are taken in an appropriate number and sufficient spreading i.e. representatively spaced. The faulty claim has to be proofed by the customer.

In case of faults which could have been spotted during a proper fault inspection, the delivery is considered as approved, if no written fault report has been received within two weeks after receipt of the goods at the point of destination, containing an explicit description of the fault.

Any transport damages have to be reported immediately to the transportation company. As far as notification is concerned, the rules of the General German Shipping Regulations (ADSp) apply. The supplier is not responsible to the effect that the usage of the goods is suitable for a certain purpose, unless he has explicitly agreed to this liability.

The supplier bears liability under the following conditions:

- Defects of goods which originate from a goods description or specification which are provided or refer back to the customer, are not covered under the liability of the supplier.
- The supplier will not cover any responsibility or liability for parts, material or any other accessories which have been produced by the customer or on behalf of the customer, unless the respective manufacturer covers the liability completely as far as the supplier is concerned.

This warranty does not cover defects of the products, which arise due to faulty installation or usage or misuse, negligence or other reasons.

2. In case a purchased item is defective and the faulty claim filed within due time, the seller has the right to choose how to rectify the claim either by repairing the fault or deliver a new free to defect item.

When rectifying the defect, the seller is obliged to bear costs as regards clearing the fault, namely work and material expenses. However, if the purchased item was in the meantime relocated to another place than the original delivery place, the seller does not have to meet the extra costs due to a further distance. Costs for transportation to the supplier are at the expense of the customer.

In case the rectifying effort is not successful, the buyer has the choice either to demand cancellation of the contract or a respective reduction.

3. The term of limitation for fault claims is 12 + 3 months calculated from the point in time when the risk is transferred. This is a term of limitation and is also valid for claims for replacement for damages consequential on the defect, in so far as no claims are lodged due to improper dealing. As far as wear and tear parts, accessories and consumable materials (e.g. accumulator, batteries, key boards, casings, covers, docking stations, headsets, cable, displays, charging devices or data storage mediums) are concerned a warranty period of six (6) months starting on date of purchase applies.
4. The warranty does not extend to natural wear or damages occurring after transfer of risk due to faulty or careless handling, overloading, unsuitable operation means, faulty building works, unsuitable building foundation, or due to faults which occur due to special external influences which have been specified in the contract, as well due to software errors which cannot be reproduced. No warranty is undertaken for any improper modifications, maintenance or repairs carried out by the customer or third party or for any consequential damage thereupon. Even the concerned devices will loose their warranty entitlement immediately.
5. The warranty period in respect of repairs, replacements or substitution services amounts to 6 months; and will last at least up to the end of the original warranty period for the goods supplied. It will be extended for those parts which could not be purposefully used during the interruption. This extension will last for the same time the operation interruption was caused by repairs, replacements or repeat services.



6. If the goods will be combined, used, offered or sold with any other product, accessories, software, consumable material, wear and tear part and/or service, which was not produced by the supplier, the supplier will not be liable for any defects or damage which will arise because of that.
7. Unless otherwise indicated below, any further claims by the customer – for what ever legal reasons – are excluded. Therefore the seller is not liable for any damage which did not occur on the delivered item itself, in particular the seller is not liable for lost profits or any other financial loss of the customer. This applies especially also for claims for damages due to fault at signing of the contract, due to other breach of duty or tortious claims on compensation of material damages according to Sect. 823 BGB. As far as the liability for indemnification is excluded or limited to the seller, this exclusion/limitation is also applicable for personal liability for indemnification of our employees, staff, assistants, representatives, agents, sub-workers and helpers. The reduction of liability described above will not apply if the damage has been caused by malice or gross negligence.
8. Concerning hard- and software for standard devices the seller has the right to up-date and to optimise and to carry out fault corrections. The seller is not liable for faults due to such alteration.
9. As far as not otherwise agreed to above, liability is excluded.
10. Defective goods have to be returned according suppliers Rules of Proper Handling of Warranty Claims (RMA-Procedure). This RMA-Procedure is part of this Generals Terms of Delivery and attached as Appendix.

IX. Trademark Rights and Copyright

1. In so far as a third party lodges justified claims against the customer in respect of breach of a trademark or copyright (in the following called "copyright") concerning products delivered by the seller and used in accordance with the contract, the supplier accepts liability for the customer as follows:
 - a) The seller will choose either to obtain a licence for the product at his own expense, or to modify the product in such a way that the copyright is not breached, or he will replace the product. If this turns out to be impossible for the supplier to achieve under reasonable conditions, he will take back the product and refund the purchase price.
 - b) The above obligations of the seller will apply only if the customer notifies the supplier immediately in writing of the claim lodged by the third party, he never accepts that there is a breach and reserves for the supplier the right to all measures in defence and negotiations. If the customer ceases to use the product in order to reduce damages or achieve other important ends, he is obliged to point out to the third party that the cessation of use is in no way associated with recognition of breach of copyright.
2. Any claims by the customer are excluded in as far as the breach of copyright is attributable to him.
3. Furthermore any claims by the customer are excluded in so far as the breach of copyright has been caused by the customer's particular specifications, or by use which could not have been predicted by the supplier, or by the fact that the customer has modified the product or combined it with products not supplied by the supplier.
4. Any further claims against the supplier are excluded. However, Clause XI (Miscellaneous Liability) will remain unaffected.

X. Infeasibility, Adjustment of Contract

1. If it is impossible for the supplier to deliver the contracted supply for reasons attributable to the supplier, the customer has the right to claim compensation. However, the customer's claim for damages will be limited to 10 % of the value of that part of the delivered goods which cannot be operated according to its purpose on account of infeasibility. This will not apply where malice, gross negligence or impracticability from the beginning has given rise to compelling liability; however, the burden of proof will be unchanged as resting on the customer. The customer's right



to withdraw from the contract will remain unaffected. The customer has to be proofed credible the claim entitlement and its value.

2. In so far as unforeseen events such like stated under Clause IV par. 2 significantly alter the commercial importance or the content of the order, or seriously affect the supplier's business, reasonable adjustments will be made to the contract in accordance with the principles of trust and goodwill. Where adjustments are not economically realistic the supplier has the right to withdraw from the contract. If the supplier wishes to make use of his right to withdraw, he has to inform the customer immediately after recognising the implications of the event, even if originally an extension of the delivery date had been agreed upon with the customer.

XI. Miscellaneous Liability

Claims for damages on the part of the customer, for whatever legal reason, especially in respect of active breach of obligation, of failure to fulfil obligations during contract negotiations, and of improper dealings are excluded. This will not apply in cases such as those brought under product liability law or involving malice, gross negligence, the absence of promised features, or breach of important contractual obligations giving rise to compelling liability. The compensation for breach of important contractual obligations will, however, be restricted to predictable damage typical of the contract as long as no malice or gross negligence is shown. No change to the burden of proof resting on the customer is associated with the above conditions.

XII. Place for Jurisdiction

1. The location of the supplier's office is the place of jurisdiction. However, the supplier has the right to take the proceedings against the customer also at the court of the city of residence of the customer.

As long as it is not otherwise stated in the confirmation of delivery, the place of the registered office of the supplier is the place of fulfilment.

2. The contractual relationship is exclusively governed by German Law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XIII. Obligation of the Contract/Concluding Conditions

1. Alterations and additions to this contract including this present clause in respect of the written form, have to be made in writing otherwise they are rendered invalid. The same applies for collateral and additional agreements.
2. If individual clauses of the contract become ineffective in law, the remaining clauses of the contract remain binding. The contract parties are obliged to replace the ineffective clause by a rule which is acceptable to each party.

RMA-Procedure for Direct Customers, Representatives and Distributors

1. Warranty claims regarding FALCOM products can only be lodged by direct sales partners of Falcom Wireless Communications GmbH (in the following called "FALCOM"). All warranty claims for FALCOM products will be dealt with by the FALCOM Support-Department.

Warranty claims about FALCOM products which have been purchased through a third party can only be lodged with this third party. Respective requests will be rejected by FALCOM.

2. Handling FALCOM products with care is a pre-condition for using the claim service. In particular the following points should be observed:

- The devices should be addressed only by means of the specified pins.
- The module should be soldered only at the specified soldering points in accordance with the respective design defaults.
- No alterations of/on the devices should be carried out.
- Protection shieldings or labels should not be removed.
- The devices or parts thereof should not be damaged mechanically.
- Devices should not be opened.

In case these points are not observed, any claim for warranty in respect of these devices will be lost.