

## **FENAGY A/S – Sales and delivery terms**

These 'Sales and delivery terms' apply to all deliveries of products and services (the 'Products') from Fenagy A/S (Fenagy) to any customer (the 'Buyer'). Unless otherwise expressly agreed upon, these Terms are mutually binding between Fenagy and the Buyer. Fenagy is not bound by any terms provided by the Buyer deviating from these terms unless such terms have been agreed upon in writing between Fenagy and the Buyer. Furthermore, Fenagy is not bound by terms provided by the Buyer regardless of whether Fenagy has raised any objections against such terms.

### *1. Order confirmation*

Purchase offers will only be deemed to have been accepted when the Buyer has received Fenagy's written acceptance of the offer in the form of an order confirmation. Order confirmations will be submitted electronically.

### *2. Cancellation*

Generally, orders cannot be cancelled after Fenagy has issued an order confirmation because the product is custom-made. However, if the Buyer decides to cancel an order, Fenagy will be entitled to compensation for costs already committed and hours performed.

### *3. Delivery and passing of risk*

The Products will be delivered FCA (Free Carrier) Røkhøj 7, 8520 Lystrup, Denmark. If delivery is delayed due to reasons on the Buyers side, Fenagy is entitled to separate and store the products at the Buyer's expense and risk with the labeling of the products belonging to the buyer. In such cases, the risk of the products is passed on to the buyer at the time of storage. Regardless of whether Fenagy may have accepted that delivery is postponed, Fenagy is entitled to invoice the products to the buyer, as if the products were delivered at the agreed date and under the terms set out in clause 6 in these terms and conditions of sale and delivery. The Buyer is responsible for taking out insurance on the Products after delivery. It is also the Buyers responsibility to ensure the product that Fenagy stores on their premises after passing on the risk to Buyer. If the Buyer fails to provide information on mode of transport or place of delivery, Fenagy will be entitled to ship the Products to the Buyer using a mode of transport chosen by Fenagy to a destination designated by Fenagy, such as the Buyer's place of business. All costs incidental to this will be charged to the Buyer. In case the customer does not pay the full sales value, Fenagy will retain ownership of the product. FCA must be interpreted in accordance with the edition of Incoterms applicable at the date of the order confirmation. Fenagy will arrange the shipment using a carrier chosen by Fenagy if requested by the Buyer. This service will not affect the passing of risk or the insurance liability.

When Fenagy is engaged in commissioning of the product on site of the buyer or the final user then Fenagy can only be considered as advisor to the buyer, as the buyer is responsible for the commissioning.

### *4. Delay*

If Fenagy fails to deliver at the agreed time, the Buyer must submit a written demand for delivery and set a final, reasonable deadline for delivery. If delivery is not made within this deadline, the Buyer will be entitled to cancel the purchase and claim compensation for any documented direct loss. Beyond this, the Buyer will not be entitled to assert any claims against Fenagy in relation to any delay.

### *5. Prices*

The prices of Fenagy's Products are stated exclusive VAT and other fees. In case of material exchange rate changes, state intervention, or similar, Fenagy reserves the right to adjust the agreed prices for Products not yet delivered.

### *6. Payment terms*

All payments must be made within 30 days of the invoice date. Default interest at a rate of 2% per month will be charged after the due date.

### *7. Product information*

All product information, regardless of whether such information is provided by Fenagy or any of Fenagy's sub-suppliers, including information on weight, dimensions, capacity, or other technical data in catalogues, descriptions, prospectuses, advertisements etc., is for information only and is only binding to the extent stated expressly by Fenagy in the quotation and/or the order confirmation. Specific requirements set up by the Buyer are only binding if they have been confirmed by Fenagy.

#### *8. Protected and confidential information*

Any type of information not in the public domain, including drawings and technical documents, passed to the Buyer from Fenagy ('Confidential information') will remain Fenagy's property and must be treated confidential by the Buyer. Confidential information may not, without the written consent of Fenagy, be copied, reproduced, or disclosed to any third party or used for purposes other than the one intended at the time of the handover of such information. Confidential information must be returned if demanded.

#### *9. Changes*

Fenagy reserves the right to make changes to its products without notice, if this will not materially change the agreed technical specifications or the formal function of the Products.

#### *10. Complaints under warranty*

Claims regarding non-conformities, delays, product liability, or any other claims for damages must be submitted in writing to Fenagy without undue delay. Fenagy undertakes, at its own discretion, to either repair or make replacement delivery of products or defective components, which, following an inspection by Fenagy, prove to be non-conforming due to defects in workmanship, design, or materials, provided that the Buyer complains within 12 months of delivery of the Product. Fenagy's complaint procedure must be followed in the event of a complaint of nonconformities: A) Fenagy sends a replacement component to the Buyer at its own account and risk, including an invoice. B) The Buyer sends the defective component to Fenagy at its own account and risk (including information on the complaint, describing the alleged non-conformity, and the name of Fenagy's contact person). The product must be returned without any components fitted. C) If Fenagy's inspection shows that the product or the component is not non-conforming, the product will be returned to the Buyer at the Buyer's account and risk, and the invoice previously submitted (point A) to the Buyer must be paid by the Buyer. If Fenagy finds any non-conformities, Fenagy will submit a credit note to close the invoice previously submitted. Fenagy will not bear any costs incidental to replacing defective components. It is a condition for approval of a non-conformity that Fenagy's service manuals and directions, start-up guide, and similar procedures have been followed. Beyond this, the Buyer will not be entitled to assert any claims against Fenagy in relation to nonconforming products.

#### *11. Repairs without charge and defects in workmanship*

In case of defects in workmanship in products/components, where the product/component is defective at the time of delivery, Fenagy may, in addition to the cover provided under Clause 10, also bear any costs incidental to the work involved in repairing/replacing the product/component. Fenagy may pay compensation for the time consumed at an agreed rate.

#### *12. Product liability, consequential damage, and indirect loss*

Fenagy is not liable for damage caused by a product to property or movables while the product is in the Buyer's possession. Furthermore, Fenagy will not be liable for damage to products produced by the Buyer or products containing products produced by the Buyer. To the extent that Fenagy incurs product liability vis-à-vis a third party for such damage, the Buyer will be obliged to indemnify Fenagy. In addition, the Buyer will be obliged to join Fenagy as co-defendant before the court or the arbitration tribunal hearing any claims set up against Fenagy due to such damage. If a third party sets up a claim against either party for liability for such damage, such party must immediately notify the other party in writing.

Fenagy is not liable to the Buyer for any form of consequential damage or indirect loss arising from or in relation to a purchase agreement regulated by these General terms and conditions of sale and delivery, including, but not limited to production interruption or loss of profit, goodwill, or data.

*13. Intellectual property rights*

If a product is delivered with required software, the Buyer will acquire a non-exclusive software license in the form of a right to use the software limited to the purpose stated in the enclosed product specifications. Beyond this, the Buyer acquires no rights in the form of licenses, patents, copyrights, trademarks, or other intellectual property rights related to the product. The Buyer acquires no rights to source code for the software, algorithms, or the like.

*14. Prohibition against resale to specific customers and countries*

Fenagy's Products have been produced for civilian use only. Fenagy's Products may not be used or resold for purposes associated in any way with chemical, biological, or nuclear weapons or missiles capable of delivering such weapons. Fenagy's Products may not be sold to persons, companies, or any other form of organization, which are known to be or suspected of being related to any form of terrorism or illicit drug activities. Fenagy's Products may be subject to statutory regulations or restrictions and may thus be subject to restrictions on sale to countries/customers covered by export/import bans. Such restrictions must be observed when reselling Fenagy's Products to such countries/customers. Fenagy's Products may not be resold in case of uncertainty or suspicion as to whether the Products may be used for the above-mentioned purposes. If the Buyer is aware of or suspects that the above conditions have been breached, the Buyer must immediately notify Fenagy.

*15. Force majeure*

Fenagy is entitled to cancel orders or defer delivery of Products and will generally not be liable for any non-delivery, non-conforming, or delayed delivery fully or partly due to circumstances beyond Fenagy's reasonable control, such as natural disaster, riot, unrest, war, terrorism, fire, public orders, strike, lock-out, slow-down, scarcity of goods, failing energy supply, or delays in deliveries from Fenagy's suppliers due to force majeure. In such case, all the Buyer's powers will be suspended or lapsed. The Buyer will not be entitled to claim compensation or assert other claims against Fenagy if Fenagy defers or cancels delivery.

*16. Partly invalidity*

If one or more of the provisions in these Sales and delivery terms are declared invalid, unlawful, or unenforceable, this will not affect or prejudice the validity, legality, or enforceability of the other provisions.

*17. Governing law and venue*

Any disputes between the Parties arising out of or in relation to a purchase agreement regulated by these General terms and conditions of sale must be settled by a court of law in Aarhus, Denmark and in accordance with the law of Denmark.

Aarhus, June 9, 2022

**About us:**

FENAGY A/S  
Rokhøj 7  
8520 Lystrup  
Denmark

Phone: +45 7199 8986

Company registration number (and VAT number): DK41457341

*Bank information:*

Nordea  
Vesterbrogade 8  
1620 København V  
Danmark

DKK account: 2040-9028927042

SWIFT-kode: NDEADKKK

IBAN-nummer: DK592000902892742

EUR account:

BIC-kode/SWIFT-adresse: NDEADKKK

IBAN-nummer: DK4271100009427808

**Specific sales and delivery terms**

Between the parties these specific sales and delivery terms have been agreed in addition to the above general sales and delivery terms: