

## **Fette Compacting Middle East FZE General Terms and Conditions for Services**

### **1. Subject Matter**

(1) All services of Fette Compacting Middle East FZE (hereinafter "FC") are subject to the following General Terms and Conditions for Services (hereinafter: Terms and Conditions). Deviating, opposing or supplementary terms and conditions of the customer shall only be components of the contract if FC has expressly consented to their application. Individual agreements concluded with the customer in the individual case (including collateral, supplementary and amendment agreements) shall always take precedence over these Terms and Conditions.

(2) These Terms and Conditions apply to all services provided by FC, i.e. among others,

- Repair and/or maintenance,
- FAT assistance,
- commissioning,
- qualification assistance,
- preventive maintenance
- inspections and calibration,
- consultations,
- training courses,
- process optimization,
- expert opinions,

(hereinafter: "Services").

(3) If a specific Service is agreed upon between FC and a customer, an individual agreement specifying the Services owed shall be concluded for each project (hereinafter "Project Contract").

### **2. Conclusion of Project Contracts; Service Order and Order Confirmation**

(1) Project Contracts are usually concluded when a service order by a customer is explicitly confirmed by written order confirmation, or when FC executes the ordered Service. The written form requirement for the order confirmation is met if the order confirmation is transmitted in text form by way of remote data transmission (e.g. e-mail) or fax.

(2) Unless otherwise stated in FC's offers, all of FC's offers shall be subject to changes and shall be non-binding. Service orders from the customer shall be binding.

(3) FC has neither a legal claim to be hired by the customer for a specific Service, nor is it obliged to accept any service orders by a customer.

(4) Project Contracts shall contain the specification of the Services to be provided as well as the specific project conditions (subject matter, duration and objectives of the project as well as remuneration, expenses etc.).

(5) Advance estimates issued by FC relating to the duration of the work and the costs (service fees, expenses, etc.) are only estimations and shall be deemed non-binding. If a Service cannot be carried out at the estimated costs or if FC considers additional work necessary, the customer's consent must be obtained if the estimated costs will be exceeded by more than 20%. If a customer views a binding cost and/or time-estimate as a requirement for the performance of the contract, it shall expressly request binding estimates before the Service is carried out. Any such estimation is only binding if explicitly stated



by FC and issued in writing. In any case, the remuneration owed is calculated based on the time spent, not on the estimate.

### **3. Performance of Services**

(1) FC carries out the Services according to the specifications in the Project Contract with care according to the latest standards, rules and knowledge. In doing so, it takes into account – as far as necessary and reasonable – general process descriptions and industry standards as well as, where applicable, specific regulations, methods and application practices, if and insofar they are communicated to FC by the customer.

(2) FC may, at its own discretion, either use its own employees or may make use of one or more subcontractors for the provision of Services (together: “FC’s Service Personnel”).

(3) When performing the Service, neither FC nor its Service Personnel is subject to any instructions from the customer beyond the specifications of the Project Contract with regard to the place, time and manner of the provision of the Service. If and insofar as no time or place of performance is specified in the Project Contract and is not logically dictated by the circumstances of the respective service performance, FC will determine the place and/or time of performance itself. FC will, however, when allocating the days of activity and the time on these days, determine these in such a way that optimum efficiency is achieved in its activities and in the realisation of the respective project.

(4) Generally, FC provides the Service at its own premises with its own equipment, unless the project requires the Service to be provided at a different location (e.g. if work is to be undertaken at a machine at the customer’s premises).

(5) Whenever a Service is provided at the customer’s premises, FC and its Service Personnel shall comply with the working hours at the customer’s site and with all possible safety and operating regulations of the facility, of which they shall be informed by the customer pursuant to its obligations, in particular under section 4. FC’s Service Personnel’s statutory maximum number of working hours per day and/or week have to be observed.

(6) FC is not entitled to represent the customer in legal transactions or to make or receive any other legally relevant declarations on behalf of the customer.

(7) An agreed service period shall be met if the Service is either completed or ready for acceptance before expiry of the service period. If the customer causes a delay – including a delay in testing or accepting the Services –, the customer shall bear all of the costs resulting from this, especially the costs of waiting periods and additional travel costs.

(8) If it becomes clear that a time estimate or an agreed service period cannot be met, FC shall notify the customer without delay and shall provide a new time estimate or estimated service period. If the time estimate or the service period was binding, then the parties shall find a mutually agreeable solution and agree on a new time frame or service period.

(9) If agreed dates for performing Services are postponed at the request of the customer, the customer shall reimburse FC for the costs and expenses which will incur and which have already incurred in connection with the originally agreed date for the Services. These also include the costs for FC’s Service Personnel assigned in accordance with FC’s fee and expense rates under section 8 applicable at the time that the Services were originally scheduled to be carried out; this shall only apply to the extent that FC’s Service Personnel cannot be assigned elsewhere.

(10) If the Services are interrupted due to circumstances for which FC is not responsible for (including public holidays at the location of the customer), all costs incurred (including for waiting times) shall be borne by the customer.

(11) With the completion of Service, FC shall provide the customer with a written service report, including a record of the working hours, the works undertaken and results of the works undertaken (e.g. an error analysis if the Service included repair of maintenance work, if applicable). Once the service report is submitted, the customer shall immediately issue a written notice if the customer does not agree with the content of the service report. If the service report is not disputed by the customer by written notice, the customer report shall be deemed correct. Duties under section 5.5 remain unaffected.

#### **4. Cooperation obligations of the customer**

(1) The customer will support FC and FC's Service Personnel in the provision of the Services by means of appropriate cooperative actions where necessary. In particular, the customer will provide FC with the necessary information and data and allow FC's Service Personnel to access its business premises during business hours to the extent necessary.

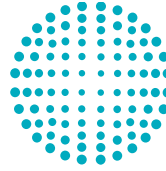
(2) Whenever Services are being carried out at the customer's premises, the customer shall take special measures required to protect persons and property on-site, inform FC's Service Personnel about the safety regulations applicable on-site and about particular risks and protective measures in connection with pharmaceutical products (e.g. antibiotics, cytostatic, hormones) in writing in due time before the Service is commenced. Furthermore, the customer must provide free of charge and without time delay all personal protective equipment such as protective clothing, protective goggles, safety shoes, etc.

(3) Whenever Services are being carried out at the customer's premises, the customer is also responsible for preparatory measures such as, inter alia, but not limited to:

- transporting the assembly components/ equipment to be serviced to the service site;
- providing all required supplies, including but not limited to heating, lighting, operating power (e.g. electricity, pneumatics, cooling water) and other supplies and outlets;
- where necessary, building exhaust-air-system respectively vacuum-system with the requested power level;
- providing suitable tools and spare parts as well as placebo, where this is necessary or has been agreed;
- protecting the service site and materials from harmful influences of all kinds;
- providing, where necessary, lockable rooms for storing the tools of the Service Personnel;
- providing suitably trained operating staff;
- cleaning the service site.

These preparatory measures must be taken in sufficient time in advance so that FC's Service Personnel can commence the Service immediately when they arrive at the customer's premises. Otherwise, waiting times of the Service Personnel will be documented and charged on the basis of FC's rates valid at the time the work is carried out. If the customer does not comply with these cooperation obligations, FC is entitled, but not under an obligation, to carry out the preparatory measure itself at customer's costs.

#### **5. Repair and Maintenance Services**



- (1) If and insofar as the Service to be performed consists of or requires maintenance, repair or other work on a machine located at the customer's premises ("Repair and Maintenance") and the Project Contract does not contain any specific provision, the rules of this section shall apply.
- (2) Repair and Maintenance dates, i.e. the dates on which an agreed Repair and Maintenance Service is to be performed, shall be agreed between the customer and FC in sufficient time in advance, i.e. a reasonable period before the desired Repair and Maintenance date.
- (3) Before performing Repair and Maintenance Services, a function test of the machines may be carried out by or in the presence of FC's Service Personnel. For this purpose, the customer shall make available the machine, customer's own personnel as well as sufficient quantities of test material, if necessary, free of charge.
- (4) If a part is used with the machine, which was not manufactured by FC and the customer has not purchased this part from FC, the customer must notify FC of any industrial property rights or copyrights that might be concerned; the customer shall indemnify FC against any claims by third parties based on industrial property rights or copyrights.
- (5) Upon notification by FC that the Repair- or Maintenance work has been completed, the customer shall immediately examine the work performed on the respective machine and accept the work once found to be substantially in accordance with FC's obligations under the contract and free of defects (*Abnahme*). If the customer does not accept the Service without good cause, acceptance shall be deemed to have taken place at the latest one (1) week after notification that the respective Service has been completed. Acceptance shall also be deemed to have taken place as soon as the customer puts the machine, on which Repair or Maintenance Services were performed, into operation for production purposes or perform test beyond the usual testing scope.
- (6) If a repair of components is necessary and FC deems, in its discretion, that it best is conducted at FC's premises, the defective component shall be sent to FC at the customer's cost, including any packaging and loading, and, after the Services have been carried out, sent back to the customer. In addition, the customer shall bear the transportation risk. For the duration of the Service at FC, the customer shall arrange for sufficient insurance of the component.
- (7) In preparation of Repair or Maintenance Service, the customer shall perform, inter alia but not limited to, the following works at its own cost and on its own responsibility:
  - Delivery of the machine, parts or equipment to the production area or to FC's facility for repair/testing purposes. Any damage during shipment must be reported to FC without undue delay;
  - Preparation of the equipment: The equipment must be degreased without using a harsh solvent, which could damage various machine components. The machine must be cleaned and made properly accessible. Any required energy and media supply to the machines must be prepared. The customer must ensure that the machine is not contaminated with residual substances from products and shall submit evidences to FC upon request;
  - Preparation of the working material: All requested material, spare parts, accessories shall be prepared to be accessible close to the machine;
  - Preparation for the work: All additional components of the machines for loading materials, filling, dosing and removing the products from the machine must be positioned in a way that they are well accessible and that the Service can be carried out without hindrances and time loss.
- (8) For any Repair or Maintenance Services, regardless of whether on-site and off-site, the customer shall ensure at its own cost that all of the legal and technical prerequisites in its sphere of responsibility are fulfilled and the customer shall assist FC with carrying out the Services. For on-site Repair or Maintenance Services, the customer shall also provide FC free of charge with the technical equipment (crane, lifting apparatus, transport rollers, scaffolding timbers, ropes, industrial trucks, materials and consumables, etc.) and customer's personnel necessary to carry out the Service.

(9) For the duration of the Repair or Maintenance Service, the FC's Service Personnel must be able to freely dispose of the machine; the machine will not be available for production operation during this time.

## **6. Liability for Repair- or Maintenance-related Defects**

(1) With regard to Repair- or Maintenance-related defects and unless otherwise provided for in section 10 the rules of this section shall apply.

(2) Unless otherwise agreed, FC shall be liable for any defects in the Repair- or Maintenance Service provided for a period of twelve (12) months after the respective Repair- or Maintenance Service was performed. FC's liability for parts it has provided under the individual Project Contract shall only apply to defects, which become apparent within twelve months after delivery to the customer or – if FC has installed the part(s) concerned during maintenance work – within twelve (12) months after the work was completed.

(3) The customer shall without undue delay and at the latest five (5) working days after discovery of a defect notify FC in writing of any defect which appears in the work performed or in the parts provided by FC. If the customer fails to give notice of a defect without undue delay, it shall lose his rights in respect of the defect, except where the defect is such that it should have been apparent to FC.

(4) FC is not liable for the condition of the machine prior to commencement of the Repair- or Maintenance Service. In particular, FC accepts no liability for any possible results of neglected maintenance on the part of the customer, or failure to maintain the functionality of the machine, or any other misuse prior to commencement of the Repair- or Maintenance Service.

(5) FC is not liable for any misuse of machines that were subject to the Repair- or Maintenance Service in question by the customer or third parties, for wear and tear parts and for spare parts not supplied by FC.

(6) FC is not liable for defects resulting from measures or constructions, which the customer expressly requested, or from materials or products, which the customer provided or the use of which the customer expressly requested.

(7) After receipt of a notice or after FC itself discovers a defect, FC shall examine the reported defect and – in case a defect is found in the examination – remedy any defects in the Repair or Maintenance Services work provided or in parts it has provided without undue delay (subsequent performance).

(8) If a defect is found by FC, FC shall bear the costs of examination and subsequent performance in case FC is responsible for the defect. Otherwise, FC can claim compensation from the customer for the costs arising from the unjustified request for the remedy of defects.

(9) FC has a right to make the subsequent performance owed subject to payment of the service fee due by the customer. However, the customer is entitled to retain part of the service fee, which is reasonable for the size of the defect.

(10) The customer must give FC reasonable time to carry out the subsequent performance. Subsequent performance does not include uninstalling the defective item or reinstalling it if FC did not originally have a duty to install it.

(11) In urgent cases (e.g. in cases of risk to operational safety), the customer shall have a right to remedy the defective Repair- or Maintenance Service itself and to claim reimbursement of the expenses objectively necessary for this from FC. The customer shall inform FC about any remedy of defects by

the customer itself immediately and before the work is carried out. The customer shall have no right to remedy the defect itself if FC would have had a right to refuse corresponding subsequent performance in accordance with the statutory and/or contractual provisions. If the customer does not remedy properly, FC shall not be liable for the consequences.

(12) If (i) subsequent performance fails (after a minimum of two (2) attempts to remedy) or (ii) a reasonable deadline has fruitlessly expired, the customer may terminate the contract or reduce the service fee. However, there shall be no right of rescission for a minor defect.

## **7. General training courses**

(1) If and to the extent that the Service to be rendered involves training or other courses to impart know-how by FC, the rules of this section shall apply.

(2) Training documents as well as software and manuals are subject to copyright protection. The product names of FC products are also subject to trademark protection. FC has the exclusive rights in this regard. Training documents and other documents provided by FC may only be duplicated for internal company purposes.

(3) Travel time and cost, accommodation expenses etc. for FC's Service Personnel as well as daily allowance shall be borne by the customer and are governed by section 8.

## **8. Service Fee, Hourly Rates, Travel Expenses and other Expenses**

(1) If no differing individual agreement on costs, fees and expenses is included in the Project Contract, the rules of this section shall apply.

(2) Services shall be charged based on FC's prices and overtime rates valid at the time the Services are provided. FC informs the customer about these prices on request.

(3) If travel is necessary in the context of Services, travel costs (including, most importantly, fees for rail or airplane tickets, the costs of transporting, customs and insuring of personal luggage as well as the tools and parts FC's Service Personnel bring with them and have shipped, among others) shall be borne by the customer. The customer shall bear the costs for any further travel-related expenses (e.g. hotel, visa fee, transfer & parking charges, rental car, taxi, telephone, etc) as well.

(4) In case service work is undertaken at the customer's premises and no hotel for FC's Service Personnel is available near the customer's premises or cannot be reached by means of public transport within half an hour transit time, the customer must either:

- provide a vehicle free of charge, or
- arrange for the transfer between the hotel and the place of work.

The transit time to and from customer's premises is working time.

(5) The customer shall receive an invoice for the travel costs and expenses of FC's Service Personnel, at FC's sole discretion, either at the end of a specific project or periodically.

(6) Additional expenses in connection with the Services or in connection with entering/staying in the country, e.g. country-specific work permits, access permits, remuneration statements shall be charged on the basis of the Project Contract and agreed additional costs.

(7) If a project requires the presence of FC's Service Personnel at a location other than FC headquarters, the travel expenses also include the costs for trips home for weekends or public holidays. If FC's Service Personnel do not travel home for weekends or public holidays, the full expense allowances, including, e.g. hotel, rental car, along with holiday surcharges and other surcharges according to Fette's internal regulations, shall be charged.

(8) When calculating surcharges for public holidays, statutory public holiday regulations applicable to FC's Service Personnel shall apply and be taken into account.

## **9. Payment Period**

(1) Unless otherwise specified in the invoice or Project Contract, invoices by FC are due for payment without deduction within 14 days of invoice date.

(2) After expiry of the payment period, FC shall be entitled to interest from the day on which payment was due and to compensation for recovery costs. The rate of interest shall be as agreed between the parties or otherwise 8 percentage points above the rate of the main refinancing facility of the European Central Bank. The compensation for recovery costs shall be one [1] per cent of the amount for which interest for late payment becomes due.

(3) FC may in addition, after having notified the customer thereof, suspend its performance of the Project Contract until it receives payment and, after completion of the Service, retain equipment of the customer, which may be in its possession. The customer shall in case of suspension further compensate FC for any additional costs incurred due to the suspension and resumption of the respective Service.

(4) If the customer does not make payments, which are due, FC can set a reasonable period for payment together with a threat of advance payments for future business for the event that the period should fruitlessly expire.

(5) Taxes, which incurred in connection with the Service in the customer's country, shall be borne by the customer.

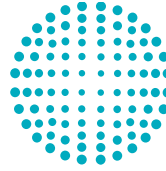
## **10. Liability and Limitation of Liability**

(1) FC shall be liable for losses and damages incurred as a result of grossly negligent breach of the Project Contract and/or as a result of willful misconduct without limitation. In any other cases, FC's liability shall be limited to the service fee agreed in the Project Contract, or – if no individual agreement on the service fee is included in the Project Contract – on the resulting fee pursuant to section 8(2).

(2) Notwithstanding anything to the contrary elsewhere, FC shall in no event and irrespective of the legal basis (contract, tort (including negligence), statutory liability, misrepresentation, indemnity or any other area of law) be liable for indirect or punitive damages, loss of profit or revenue, loss of use or loss of production, loss of data, cost of capital, cost of substitute goods, property damage external to the contractual products and any damage, expenditure or loss arising of such damage, any incidental or consequential damages or any of the foregoing suffered by any third party, whether foreseeable or not.

(3) For the avoidance of doubt, the limitation of liability set forth in this section shall not apply (a) to the injury to life or health by a Party; or (b) to such cases where strict liability under law applies (e.g. Product Liability).

(4) Customer's claims for damages for which liability is limited under this provision shall become time-barred one year from the start of the statutory limitation period.



## **11. Termination of Project Contracts**

(1) Unless otherwise provided for in the respective Project Contract, a Project Contract can be terminated by either party with 3 months' notice following which the Project Contract shall end automatically without either party having to obtain a court order. A termination with immediate effect is only possible for good cause.

(2) If the Project Contract is terminated, FC is entitled to remuneration for the Services provided up to the effective date of termination. The Services agreed for the duration of the period of notice and not yet fully performed shall still be properly performed and remunerated. The Customer may waive this, but must still pay the agreed remuneration in full.

## **12. Right to suspend obligations**

(1) FC shall be entitled to suspend performance of its obligations under a Project Contract to the extent that such performance is impeded or made unreasonably onerous by an "Event of Delay" meaning any of the following circumstances: industrial or labour disputes and any other circumstance beyond the control of the parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, pandemics, epidemics, natural disasters, extreme natural events, terrorists acts and defects or delays in deliveries or work by subcontractors caused by any such Event of Delay.

(2) If affected by an Event of Delay, FC shall notify the customer without delay on the intervention and on the cessation of such circumstance.

(3) Regardless of what might otherwise follow based on these Terms and Conditions or the individual Project Contract, FC shall be entitled to terminate a Project Contract if performance of the Project Contract is suspended for more than three months as a result of the an Event of Delay.

## **13. Miscellaneous**

(1) The laws of the UAE as applied in the Emirate of Dubai excluding the UN Convention on Contracts for the International Sale of Goods (CISG), applies to these General Terms and Conditions and to the contractual relationship between FC and the customer.

(2) All disputes arising out of or in connection with the individual Project Contract or these Terms and Conditions shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. The seat of the arbitration is Dubai The language of the arbitration shall be English.

(3) If one of the above provisions of this Terms and Conditions is or becomes invalid, the parties undertake to replace the invalid provision by a valid provision which achieves, to the best possible extent, the economic intent of the parties. The invalidity of a provision of these Terms and Conditions shall not prejudice the validity of the other provisions of these Terms and Conditions.