

GENERAL TERMS AND CONDITIONS OF DELIVERY AND SERVICE FOR FMD MÖBEL GMBH,

APPLICABLE TO COMMERCIAL TRADE EXTERNAL TO

THE FEDERAL REPUBLIC OF GERMANY

AS AT JANUARY 2017

I. GENERAL

1. The following General Terms and Conditions shall be applicable to all our deliveries and services and to the underlying offers, order confirmations and contracts within the framework of commercial trade with clients not headquartered in the Federal Republic of Germany. This shall also apply to all future business, even should these Terms and Conditions not be expressly referenced in individual cases. Amendments and/or subsidiary agreements shall require our explicit written confirmation to be effective.

2. Deviating terms of the client are hereby expressly rejected. We are also under no obligation should we not reject deviating terms on conclusion of the contract.

II. OFFER

1. All our offers shall be subject to change and non-binding.

2. Unless expressly stated as binding, documentation such as illustrations, drawings, weights and dimensions accompanying a specific offer are approximations only. We reserve the proprietary right and copyright to cost estimates, drawings and other documentation. They shall not be divulged to third parties. We undertake not to divulge plans the client describes as confidential to third parties, unless with the client's consent.

III. CONCLUSION OF CONTRACT

1. All orders shall be in writing. The client shall be obligated to specifically point out any differences between his written order and the underlying FMD offer.

2. Orders shall strictly enter into effect only following our written order confirmation, which will define the entire content of the contract, including all agreements on the properties of the supplied goods. The client shall assert objections to the content of our written order confirmation in writing and without delay, but within three (3) calendar days.

IV. PRICES

1. All prices shall be non-binding and exclusive of statutory value added tax, where applicable.

2. Unless otherwise agreed, the prices shall be ex stock, excluding packaging, insurance and freight.

3. Should agreed delivery times exceed four months, we shall be entitled to pass on any interim increases in the cost of materials, manufacture, installation, personnel, delivery and the like, to the client.

V. PAYMENT/EXCLUSION OF SET-OFF/RIGHT OF RETENTION

1. Our invoices shall be payable without deductions.

2. The client shall, in the event of defaulting on payment, pay default interest of 12%, subject to a minimum of 9% over base rate. The client shall, should the interest rate as per Clause 1 exceed the statutory interest rate pursuant to § 288 BGB [*German Civil Code*], have the right to prove that the damage caused by his default was less or nil. FMD shall be entitled to claim higher damages caused by the default.

3. Should a client be in arrears with a payment, all outstanding debts shall be payable immediately, even should we have accepted bills of exchange as payment.

4. Should the client's financial circumstances deteriorate to the extent that our claim will be compromised, we shall be entitled to demand advance payment or adequate collateral. This shall also apply should we become privy to such circumstances only after conclusion of the contract. Should, despite a reminder and a reasonable period of grace, prepayment or surety not be forthcoming within the grace period, we shall be entitled to withdraw from the contract or demand compensation due to non-performance. Payment or surety cannot in the above cases be made conditional upon the return of current bills of exchange.

5. Bills of exchange or cheques shall be accepted only on account of payment and after special agreement. The client shall always carry the cost of discounts, bills of exchange and other fees.

6. Set-off by the client with counterclaims shall be excluded

unless such counterclaims are uncontested or legally binding. The client shall not assert a right of retention unless based on the same contractual relationship or unless the counterclaims are uncontested or legally binding.

VI. DELIVERY – TRANSFER OF RISK

1. Delivery dates and delivery deadlines shall be approximate. Delivery deadlines start with the date of our order confirmation, conditional upon the client having satisfied his obligatory duties of cooperation or, in particular, having made an agreed deposit.
2. The delivery deadline shall be deemed met if the item for delivery has left our works prior to its expiry or, in the case of direct shipment, left the works of the consigner.
3. Delivery deadlines shall be conditional upon correct and punctual own supply. We shall immediately inform the client in the event that our own supplier fails to deliver or delivers incorrectly, thereby delaying our delivery to the client.
4. In the event of delays in delivery due to force majeure, riots, strikes, lockouts, depletion of raw materials or disruption of operations for which we cannot be held responsible, including at our own suppliers, the times of performance shall be extended by the time required to remedy such disruptions, insofar as the latter affect the manufacture or delivery of the item. We shall notify the client as soon as possible of the onset and termination of such disruptions. We shall also have a right, under the exclusion of claims for compensation, to withdraw from the contract, fully or in part, following ongoing disruption of operations due to force majeure, riots, strikes, lockouts, depletion of raw materials or disruption of operations for which we cannot be held responsible, or following our own suppliers defaulting on delivery without any fault of our own.
5. Risk of price and performance shall be transferred to the client at the start of loading at the latest, wherein loading shall be the duty of the client.
6. Reasonable partial delivery shall be permitted.
7. The risk of conveyance shall always lie with the client. This shall also apply in cases where we, in exceptional cases, deliver carriage paid. Insurance shall only be taken out on request and for the account of the client. The choice of the forwarding route shall be at our discretion, unless the client issues special instructions.
8. Claims for damages shall be asserted exclusively in accordance with Section VIII. paragraph 2.

VII. RETENTION OF TITLE

1. We shall retain ownership of all goods delivered by us (goods subject to retention of title) pending full payment of all our claims under the business relationship, including

subsequently concluded contracts, irrespective of legal grounds and including all contingencies (payment by cheque or bill of exchange).

2. The client shall be entitled to resell the goods in the course of regular business transactions, provided he is not in default with his obligations towards us or stops payment. The following shall apply in particular:

- a.) The client hereby, in the amount of the total of our account, cedes to us his claims arising from resale or other sales transactions, e.g. works contracts, including all ancillary rights.
 - b.) The client shall have the right to collect the claims ceded to us, unless we revoke said right. The direct debit order shall lapse after revocation following the client's default on or stoppage of payment. The client shall authorise us in this case to inform his customers of the cession and to collect his claims ourselves. The client shall be obligated on request to provide us with a detailed breakdown of his receivables, including name and address of the customers, the amount of each invoice, invoice date, etc. and to provide us with all the information and documentation required to assert such ceded claims, including permission to check such information.
 - c.) Amounts attributable to ceded claims received by the client shall be separately accounted for until transfer.
 - e.) The client shall not resell goods under retention of title unless in regular course of business. He shall also retain ownership up to full payment of the purchase price.
3. Pledges or chattel mortgages of the goods under retention of title or ceded claims are not allowed. We shall be notified of garnishment without delay, including the name of the garnisher.
 4. Should the marketable value of the sureties held by us exceed the total of our claims against the client by more than 20%, we shall be obligated to release sureties on written request of the client.
 5. The client shall safeguard the goods under retention of title for us, free of charge. He shall insure such goods at normal rates against conventional hazards such as fire, theft and water. The client hereby cedes his claims, against insurance companies or other parties under obligation, for compensation following damages or losses as described above, to us in the amount of our claims. We hereby accept the cession.

VIII. CLAIMS FOR DEFECTS / INDEMNITY AND WITHDRAWAL FOLLOWING OTHER BREACHES OF DUTY

1. We shall in the event of justified claims offer supplementary performance in the form of rectification of defects or replacement, at our discretion. Provided the prerequisites are satisfied, the client shall also have a right to a discount on the purchase price (reduction). Claims for damages shall, however, only be accepted pursuant to the following provisions.

2. The contractual partner shall have a valid claim for damages against us if such claims

a) are due to injury to life, limb or health as a result of culpable or negligent breach of duty by us or by one of our statutory representatives or vicarious agents, or

b) are due to culpable or grossly negligent breach of duty by us, our statutory representatives or vicarious agent, or

c) are based on the Product Liability Act or if we are liable due to a procurement risk or warranty we assumed. If damages are due only to the negligent, yet not grossly negligent, violation of a significant duty under the contract (cardinal duty) by us, our statutory representatives or vicarious agents, we will also be liable for compensation of damages, limited to the amount of typically arising and foreseeable damages, up a maximum of 200% of the amount of the specific delivery. Cardinal duties in the above context are duties without which proper execution of the contract would not be possible and which the client would therefore normally expect to be able to rely on. Cardinal duties furthermore constitute duties that, if violated, would threaten realisation of the purpose of the contract. The statutory apportionment of the burden of proof shall apply.

Claims for damages against us, our statutory representatives and vicarious agents and our assistants, irrespective of their legal base, shall be excluded unless the above prerequisites to liability are satisfied. We shall accept no liability for claims based on lost profit or other ideological impairment.

IX. LIMITATION OF CLAIMS BASED ON LIABILITY FOR DEFECTS

Claims by our contractual partner based on material defects

lapse after one year.

X. APPLICABLE LAW

All disputes shall be settled based exclusively on the stipulations of the Convention of the United Nations dated 11.04.1980 governing contracts for the international sale of goods (Vienna Convention / CISG).

XI. PLACE OF PERFORMANCE AND JURISDICTION

1. The place of performance shall be our headquarters.

2. The place of jurisdiction governing all claims, including bills of exchange and cheques, shall be our headquarters. We shall, however, be entitled to file a claim against the client at his general place of jurisdiction.

XII. PARTIAL INEFFECTIVENESS

Should a provision of these Terms and Conditions of Delivery and Service be or become fully or partially ineffective or unenforceable, then the effectiveness and enforceability of the remaining provisions shall not be affected thereby. The ineffective or unenforceable provision shall be replaced by an effective and enforceable provision approaching the commercial purpose of the ineffective or unenforceable provision as closely as possible, provided legally permissible.