

General Conditions of Sale of FEDDEM GmbH & Co. KG

1. Scope and Format

- 1.1 FEDDEM GmbH & Co. KG (hereinafter 'FEDDEM') shall conclude contracts with third parties (hereinafter 'Contracting Parties') regarding all types of deliveries to third parties, whether goods, works, services or other, exclusively in accordance with these Terms and Conditions of Business.
- 1.2 Contrary or different terms and conditions of a Contracting party do not apply unless expressly agreed by FEDDEM. The acceptance of tenders, confirmations of order or other declarations stating a wish conclude a contract with a Contracting Party shall not imply agreement with said Contracting Party's terms and conditions of business, likewise the acceptance of payment without reservation. Upon initial entry into a contract between FEDDEM and the Contracting Party, these Terms and Conditions shall be regarded as also automatically agreed for all subsequent contractual relationships without reference having to be made to said Terms and Conditions again.
- 1.3 All agreements reached between FEDDEM and the Contracting Party must be recorded exclusively in writing unless a more rigorous format is stipulated. Additional verbal agreements shall not be effective unless they are subsequently confirmed in writing.

2. Dates and Deadlines

- 2.1 Agreed delivery dates and deadlines for work shall essentially not be fixed deadlines; the Contracting Partner shall not derive any entitlement if these deadlines are missed subject to the provisions below. In terms of the delivery of goods, missing a deadline by up to six weeks shall still be regarded as on time, whereby it is sufficient if the goods arrive for dispatch or are made available for collection ex works at FEDDEM. Moreover, deliveries shall be regarded as on time provided that failure to meet a respective deadline is reasonable for the Contracting Party depending on the type of service to be provided.
- 2.2 If the ultimate deadline referred to in Section 2.1 is missed, the Contracting Party shall allow an appropriate period of grace of at least four weeks provided FEDDEM is responsible for the delay. This shall not apply if the Contracting Party demonstrates that it can no longer use the delivery/service on account of the delay. In such cases, the Contracting Party shall specify an appropriate shorter period of grace. If the period of grace passes without the respective delivery/service being provided, the Contracting Party shall be entitled to withdraw from the part of the contract that has not yet been completed.
- 2.3 In the event of a force majeure and other delays beyond FEDDEM's control, particularly in the event of labour disputes, the agreed delivery deadlines shall be postponed by the respective duration of the disruption. If the duration of such a delay is not reasonable for the Contracting Party or if the delivery/service is ultimately no longer of interest to the Contracting Party as a result of the delay, the latter shall be entitled to withdraw from the contract.
- 2.4 FEDDEM shall be entitled to withdraw from the respective contract if FEDDEM is unable to foresee the duration or the end of a delay pursuant to Section 2.3. Furthermore, FEDDEM shall be entitled to withdraw from the contract if completion is not sustainably possible as a result of non-performance by the vendor's suppliers even if impossibility is not yet definitive.
- 2.5 The provision of partial services and deliveries shall be permitted unless this is unreasonable for the Contracting Party.

3. Prices and Payments

- 3.1 All prices indicated by FEDDEM in quotes or other documents are net prices to which the applicable VAT or sales tax must be added.
- 3.2 All prices indicated by FEDDEM are 'ex works' without packaging and carriage costs.
- 3.3 Dividing up payments to be made into part payments made at various times (on placing an order, on delivery, acceptance etc.) shall be subject to the respective arrangement in individual cases. The deduction of discount shall not be permitted.
- 3.4 If there is a significant increase in the price of raw materials/preliminary products etc. required for fulfilling the contract between the agreement date and the delivery/service performance date, the Contracting Party shall undertake to accept a reasonable increase in the prices agreed. Moreover, the prices agreed on the contract date shall apply.

- 3.5 The Contracting Party shall fall into arrears immediately upon expiry of the payment term indicated in the respective invoice without a further formal reminder or expiry of an additional period being required. The Contracting Party shall only be entitled to offset or withhold payments if its claims are uncontested or have been legally upheld by a court of law.

- 3.6 All additional costs of any kind (for example- customs duties, import sales tax, bank charges etc.) associated with any delivery or service provision in foreign countries/abroad as well with payments from abroad shall be borne solely by the Contracting Party.

4. Acceptance, Checking and Transfer of Risk

- 4.1 Risk shall transfer to the Contracting Party as soon as the goods are sent for dispatch (handed over to the transport company) or have been collected. This shall also apply if FEDDEM selects and commissions the transport company at the Contracting Party's expense. In the event that the transport company is commissioned by FEDDEM at the Contracting Party's expense, FEDDEM hereby assigns any potential claims against the transport company to the Contracting Party which hereby accepts.

If dispatch/collection is delayed on account of reasons for which the Contracting Party is responsible, the risk shall transfer to said Contracting Party upon notification that goods are ready for dispatch/collection.

- 4.2 Items- which require acceptance- must be checked and accepted immediately upon receipt by the Contracting Party unless installation and/or assembly is required first. In the latter case, acceptance must take place immediately after assembly and/or installation. If an acceptance procedure is not carried out within ten days of assembly/installation, items shall be regarded as accepted. The same shall apply if goods are used by the Contracting Party.

In the event of the delivery of goods as part of a commercial transaction, the Contracting Party shall check the respective goods immediately upon receipt. Goods shall be regarded as accepted no later than ten days following their receipt by the customer if no complaint has been made.

5. Reservation of Ownership

- 5.1 FEDDEM shall reserve ownership of all goods- which are delivered to the Contracting Party- until all outstanding debts arising from the business relationship have been settled in full.
- 5.2 The Contracting Party shall be prohibited from pledging or assigning as all collateral goods that are subject to the above-mentioned reservation of ownership. The Contracting Party shall notify FEDDEM immediately in the event of pledging or seizure or other measures by third parties in relation to goods that are subject to reservation of ownership by FEDDEM.
- 5.3 In the event of an application for the initiation of insolvency proceedings in relation to the Contracting Party's assets, FEDDEM shall be entitled to withdraw from the contract and to request the immediate return of the reserved goods.
- 5.4 The Contracting Party shall be entitled to resell goods delivered in the context of a standard business transaction. In such cases, the Contracting Party herewith assigns to FEDDEM all claims amounting to the final invoice amount including VAT of the receivable, which is due to the Contracting Party from its purchasers or third parties from the resale, irrespective of whether the object of sale has been resold after work has been carried out on it or not. FEDDEM hereby accepts this assignment.
- 5.5 If the goods supplied under reservation of ownership are mixed with or associated with other items, FEDDEM shall acquire co-ownership of the new item in proportion to the value of the goods supplied under reservation of ownership to others with mixed or associated items. If the Contracting Party acquires sole ownership of the new item, FEDDEM and the Contracting Party hereby agree that FEDDEM shall be entitled to co-ownership of the new item in proportion to the value of the processed, combined or mixed goods supplied under reservation of ownership and that said new items shall be stored free of charge by the Contracting Party.
- 5.6 FEDDEM undertakes to release collateral to which it is entitled at the Contracting Party's request provided the value of the collateral exceeds the value of the debts

to be secured by more than 10%. The selection of collateral to be released shall be solely incumbent upon FEDDEM.

6. Liability, Warranty and Industrial Property Rights

6.1 In the event of material defects- FEDDEM shall be liable initially, provided such defects have been promptly notified, solely in the form of subsequent performance. Material defects shall be notified to FEDDEM in writing within one week of their discovery; warranty claims may not be made after this period has elapsed. This shall not apply in the event of the fraudulent concealment of defects by FEDDEM. In the event of minor defects, the Contracting Party shall only be entitled to a reduction in payment in the event of the failure of subsequent performance; in the event of major defects- the Contracting Party shall be entitled only to withdraw from the contract in the event of the failure of subsequent performance.

Any work on goods supplied that is carried out by the Contracting Party or a third party as well as the use of spare parts, accessories etc. not expressly approved by FEDDEM shall render any warranty claim by the Contracting Party completely null and void unless the Contracting Party is entitled to substitute performance in accordance with statutory provisions and these Terms and Conditions.

There shall be no entitlement to compensation except in the event of deliberate intent or gross negligence as well as in the event of a minor negligent breach of significant contractual obligations. In the event of negligent breaches of obligations, liability shall be limited to foreseeable typically occurring damages.

The above-mentioned limitations of liability shall not apply in the case of damages arising from injury to life, limb or health or in the event of contradictory mandatory provisions in the German Product Liability Act.

6.2 Material defects shall not be covered by warranty in the event of the delivery of used goods by FEDDEM.

6.3 Minor, reasonable deviations in dimensions and designs shall not constitute material defects unless absolute compliance with dimensions and technical and visual design has been expressly agreed. Technical improvements as well as technical modifications, which do not constitute deterioration in terms of quality, shall not constitute material defects either, unless the usability of the goods is adversely affected by this.

6.4 To the best of its knowledge, FEDDEM delivers all goods to the country of the place of delivery free of any third party industrial property rights. If a third party justifiably makes claims against the Contracting Party arising from a breach of industrial property rights in connection with goods supplied by FEDDEM, FEDDEM shall be liable as follows:

FEDDEM shall be entitled, at its discretion; either to replace the goods supplied or to modify them such that a further breach of industrial property rights is prevented or to reach an agreement with the owner of the industrial property rights that allows the Contracting Party to continue using the goods according to specifications. In the event of a change to or replacement of goods, FEDDEM shall be liable for the claims incurred to date by the owner of the industrial property rights.

If it is not possible for FEDDEM under appropriate conditions to make goods available to the Contracting Party free of industrial property rights or following an agreement with the industrial property rights owner- available for use in accordance with specifications, FEDDEM shall be entitled to withdraw from the contract.

6.5 Claims by the Contracting Party shall be excluded unless it informs FEDDEM immediately of recourse on account of an alleged breach of industrial property rights, makes every effort to support FEDDEM in defending such claims or in rectifying the breach in one of the ways indicated above, said breach relates to a feature of the goods, which was expressly ordered by the Contracting Party or is based on another action by the Contracting Party that is contrary to the terms of the contract, in particular on a use of the goods that is not compliant with the terms of the contract or the taking of goods to a third party country, which has not been approved in advance by FEDDEM and the industrial property rights situation in the respective country has not been checked. The same shall apply if the customer knows or ought to know when placing an order that the goods supplied by FEDDEM are in breach of third party industrial property rights.

6.6 If software, manuals or other intellectual property protected by copyright or in another way is included in the scope of delivery, the Contracting Party shall be granted a non-exclusive right of use. Such property may only be used in the context of using the goods as per contract or as per terms and conditions; software may only be run on one operating system.

The Contracting Party may only copy, adapt or translate such parts of a delivery (software, manuals etc.) to the extent permitted in accordance with Articles 69a et seq. of the German Copyright Act. The Contracting Party undertakes not to remove manufacturer's details, in particular copyright notices, logos, trademarks or similar or not to alter these without FEDDEM's consent. The granting of sub-licences shall not be permitted.

If items supplied are subject to copyright or other protection belonging to a third party, the latter's terms and conditions of licence shall apply to which FEDDEM shall expressly refer the Contracting Party. In the event of defects in these delivery components, particularly in the case of software, the Contracting Party undertakes to contest these defects firstly with the software manufacturer or other third party. The Contracting Party is hereby expressly authorised to this effect. FEDDEM shall be liable in such cases only in the second degree in the event that corresponding claims against the software manufacturer or other third party cannot be enforced. There shall be no obligation to supply updates or upgrades.

7. Miscellaneous

7.1 Without prejudice to any parallel additionally agreed confidentiality provisions, all information disclosed to the Contracting Party in the context of contractual cooperation shall be treated as confidential. This shall apply irrespective of whether or not trade secrets in the legal sense are involved.

Passing on such information to a third party shall only be permitted for the purposes of fulfilling the contract and if the Contracting Party has likewise bound the respective third party to maintain confidentiality in advance.

7.2 Only German law shall apply to all contracts concluded in accordance with these Terms and Conditions of Business, with the exception of the United Nations Convention on Contracts for the International Sale of Goods. This shall also apply in the event of disputes regarding these Terms and Conditions.

7.3 The exclusive place of jurisdiction for any disputes arising in connection with these Terms and Conditions of Business and the contracts concluded in accordance with them shall be the competent court for the business community in D-53489 Sinzig.

7.4 This English version of the FEDDEM GmbH & Co. KG General Terms and Conditions for the Provision of Services, Works and Deliveries only is a translation of the original German version. In case of differences or contradictions only the German version of the Terms and Conditions is valid.