

TERMS AND CONDITIONS of DELIVERY

FemStar Innovations BV / Fem*ster / FemStar, with its registered office in Veenendaal, The Netherlands, filed with the registry of the District Court of Midden-Nederland under number 40/2016 on January 20, 2016.

Art. 1 // Definitions

The following terms assume the below-mentioned meanings in these terms and conditions, unless explicitly stipulated otherwise.

We or us: private limited company FemStar Innovations BV, registered with the Chamber of Commerce under number 63551020.

Client: any legal entity or natural person, acting in a professional or commercial capacity, which has concluded or wishes to conclude an agreement with our company, as well as its possible representative, deputy, assignee and beneficiaries.

Consumer: an opposite party, who is a natural person, does not act in a professional or commercial capacity and concludes an agreement with our distributors.

Consumer purchase: the purchase and sale agreement related to a moveable item, concluded between our distributors and a consumer who is a natural person and does not act in a professional or commercial capacity.

Opposite party: the Client

Agreement: the agreement between us and the opposite party.

Distributors: the companies that have fixed agreements with us related to the purchase and resale of our products.

Art. 2 // General

1. We are the designer and seller (wholesale and retail) of a highchair and related (baby-/childcare) products within Europe and beyond its borders. We supply our products via a network of distributors who are all independent operators.
2. Our products are also for sale via our website. Remote agreements with consumers are established via a (nearby) dealer, who undertakes to purchase from us and supply to consumers according to the conditions stipulated on our website.
3. In case of remote sale via our website, no commitments are established between us and the consumer. However, our terms and conditions of delivery apply to agreements concluded between consumers and our distributors.
4. All our offers and agreements and their execution are exclusively governed by the terms and conditions in hand. Any deviations must be explicitly agreed upon with us in writing.
5. The terms and conditions in hand likewise apply to all agreements concluded with us, for which execution requires the involvement of other parties.
6. Relevance of the terms and conditions of the opposite party is explicitly rejected.
7. If one or more stipulations forming part of these terms and conditions are null or become nullified, the remaining stipulations in these terms and conditions remain in full force.
8. We may enforce additional conditions if communications between parties or legal transactions take place by means of email.

Art.3 // Offers

1. All offers made by us in any form whatsoever are free of obligation unless explicitly stipulated otherwise and apply for a maximum of one month.
2. All images, photographs, drawings and details related to weights, dimensions, colours, etc. found on our website are only indicative and cannot, with the exception of substantial and drastic departures, be considered a reason for non-conformity.
3. We assume – and the opposite party guarantees – the accuracy and comprehensiveness of specifications, (electronic) files and other data, provided by or on behalf of the opposite party, upon which we base our offer.
4. Receipt of offers and/or (other) documentation from us does not mean that we are obligated to accept an order. We will inform the opposite

party of acceptance as quickly as possible and within a period of 14 days at most in all cases.

5. If we incur costs in order to issue an offer to the opposite party, we reserve the right to recoup these costs from the opposite party insofar as we have informed the opposite party about this prior to issuing an offer.

Art. 4 // Agreement

1. During or after conclusion of the agreement and before proceeding (further), we reserve the right to request security from the opposite party to guarantee that payment commitments and other obligations are observed.
2. In terms of the sale of our product, we may demand advance payment in full for our products due to the short sales window and the nature of our products. In departing from article 26 of book 7 of the BW (Dutch Civil Code), this also applies to consumers. If advance payment is required, the consumer cannot assert any rights related to the order in question or the request for service(s) in question before the required advance payment has been made.
3. If deemed necessary or desirable to ensure correct execution of the assignment granted to us, we are authorised to involve other parties in execution of the agreement, the costs of which will be charged to the opposite party.
4. The opposite party is obligated to provide in good time all the information and documents necessary for the proper execution of the agreement. If information necessary for the execution of the agreement is not provided to us in good time, we reserve the right to suspend execution of the agreement and/or to charge additional costs, arising from the delay, to the opposite party at customary rates.
5. If execution of the agreement in phases has been negotiated, we may suspend parts of a subsequent phase until such a time as the opposite party has approved the results of the preceding phase in writing.

Art. 5 // Prices

1. Unless otherwise stipulated, our prices are:
 - based on supply from our company, warehouse or other place of storage. This implies 'ex works' in accordance with Incoterms 2010;
 - exclusive of VAT, possible import and export duties, other taxes, levies and duties, consular costs or other costs related to compiling consular invoices, certificates of origin and similar costs, unless prices relate to offers on our website that are also aimed at consumers, in which case the price will be inclusive of taxes;
 - exclusive of costs related to packaging, handling, shipping/postage, administration and insurance;
 - reflected in EURO (€) with possible interim exchange rate fluctuations passed on.
2. If faced with an unforeseen interim increase in cost price factor(s), we reserve the right to proportionately increase the price of an order, all the while taking into account any possible legal regulations.

Art. 6 // Payment

1. Unless otherwise agreed in writing, payment must take place upon supply or delivery in cash without any discounts or deductions, or within 14 days of invoice date by means of deposit or transfer to the bank or giro account specified by us. The date of receipt on our bank statement will be noted as the date of payment.
2. All payments by the opposite party firstly serve to cover possible interest and collection costs incurred by us, and subsequently to cover the oldest outstanding invoice(s). Without being in default as a result, we can reject an offer of payment if the opposite party allocates payment in a different order. We can reject full payment of the principal amount if the incurred and current interest and costs are not paid in addition to the principal amount.
3. Objections to invoice amounts do not suspend payment obligations.
4. We have the option of charging a 2% credit-limitation surcharge. We will not enforce this surcharge if payment is made within 7 days of invoice date.

Art. 7 // Interest and costs

1. If payment has not been made within the specified period, the opposite party is in default by operation of law and interest of 2% per (part of a) month is payable over and above the amount that is (still) outstanding.
2. All judicial and extrajudicial costs incurred are for the account of the opposite party. Judicial costs also include all actual legal and trial advisory costs incurred during legal proceedings, insofar as they exceed the rates of our legal advisor.
3. If payment has not been made within the specified period, we will claim collection costs.
If you are a legal entity or a natural person acting in a professional or commercial capacity, these collection costs amount to 15% of the principal amount plus interest payable. A minimum amount of €250 applies.

Art. 8 // Supply

1. Once a purchase agreement has been concluded, all risk related to the purchased goods are transferred to the opposite party. Unless otherwise agreed, supply takes place from our company warehouse. This means that supply is 'ex works' in accordance with Incoterms 2010, or FOB China.
2. The time of delivery is defined as the time at which the purchased goods are ready for shipment.
3. If delivery takes place on the basis of 'Incoterms', the 'Incoterms' applicable at the time of conclusion of the agreement apply.
4. The opposite party is obligated to take possession of the goods at such a time as they are available or at such a time as we deliver the goods or arrange delivery. The opposite party must collect the goods on days on which trade is permitted, but by 31 December of the year in question at the latest and within our trading hours.
5. The opposite party is obligated to check the delivered goods or have them checked for any deficits or damage, such within three working days after delivery or after our notification that the delivered goods are available to the opposite party.
6. We reserve the right to supply orders in separate batches, which we may also invoice separately.
7. Delivery periods are always estimates, unless explicitly otherwise agreed in writing.
8. If, after expiry of the delivery period, the goods have not been collected by the opposite party or if the opposite party has neglected to provide information or instructions necessary for delivery, we will store the goods at the expense and risk of the opposite party, keeping the goods available to the opposite party subject to payment of the relevant invoice(s).
9. The opposite party is obligated to return the supplied packaging to us. Failing to do so will result in compensation payable to us by the opposite party.

Art. 9 // Cancellation, suspension and dissolution

1. If, once an agreement has been concluded, the opposite party wishes to cancel and we agree to do so, cancellation costs amounting to 10% of the order amount (excl. VAT) or a minimum of €100 will be charged. This does not affect our right to full compensation, including compensation for lost income.
2. We have the authority to suspend our obligations or dissolve the agreement if:
 - the opposite party does not observe or fully observe its obligations forthcoming from the agreement.
 - after conclusion of the agreement, circumstances give us good reason to fear that the opposite party will not fulfil its obligations. If there is good reason to fear that the opposite party will fulfil its obligations only in part or inadequately, suspension is only permitted insofar as is justified by the shortcoming.
 - security has been requested from the opposite party to guarantee the fulfilment of its obligations forthcoming from the agreement, but such security has not been provided or is insufficient. As soon as security is provided, the authority to suspend obligations lapses, unless fulfilment has been unreasonably delayed as a result.
3. We furthermore have the authority to annul the agreement (or order its annulment) if circumstances arise that are of such a nature that fulfilment of the agreement is impossible or cannot any longer be expected within all reason and fairness, or if circumstances arise that are of such a nature that preservation of the agreement in its current form cannot within reason be expected.
4. If the agreement is dissolved, our claims against the opposite party are payable immediately. If we suspend fulfilment of obligations, we retain the rights stipulated by the law and the agreement.
5. We at all times reserve the right to claim compensation.

Art. 10 // Non-disclosure and privacy

1. Neither party may disclose any confidential information within the context of the agreement that they have obtained from one another or from other sources. If a party receives confidential information, it will only use such information for the purpose for which it has been issued. Information is deemed private if it has been shared by one of the parties or if it is confidential by nature.
2. If, on the basis of a legal stipulation or court order, we are obligated to also divulge confidential information to a third party assigned by the law or the competent court, and we are not able to invoke a non-disclosure right recognised legally or by the competent court, we cannot be held liable for compensation or damages and the opposite party is not entitled to dissolution of the agreement on the basis of any losses suffered as a result.
3. The opposite party indemnifies us from any claims lodged by persons whose personal details are registered or processed within the context of a database maintained by the opposite party, or for which the opposite party bears responsibility based on the law, unless the opposite party can prove that the facts that form the basis of a claim can be attributed only to us.

Art. 11 // Retention of title

1. Goods supplied remain our property until such a time that all consignments and services and/or prospective consignments and services, supplied in accordance with this agreement, have been paid for by the opposite party, including interest and other costs.
2. If the opposite party:
 - is declared bankrupt or insolvent, initiates partition of property, requests suspension of payment or is subject to the attachment of part or all of its property,
 - passes away or is in receivership,
 - neglects to fulfil the obligations forthcoming from the law or these conditions,
 - neglects to pay an invoice amount or part thereof within the specified period,
 - ceases to trade or transfers its company or a significant part thereof. This includes the merger of the company with a prospective or existing company, or amendment of the objectives of the company, the mere occurrence of such a circumstance gives us the right to either annul the agreement, or immediately and without warning or notice claim in full any amount owed by the opposite party for services rendered, with none of the aforementioned affecting our right to compensation related to costs, losses and interest.
3. A client who acts as a reseller will be permitted to sell and distribute all goods subject to our retention of title within the context of the usual trade methods of the company.
4. If the opposite party (jointly) establishes a new venture with goods supplied by us, the opposite party establishes such a venture on our behalf and will operate the new venture on our behalf until such a time that the opposite party has paid all amounts owed in accordance with the agreement; in aforementioned cases, we have equal rights as the owner of a new venture until all monies owed by the opposite party have been paid.
5. When the occasion arises, increased rights will be granted or transferred to the opposite party on condition that the opposite party pays the agreed fees in good time and in full.
6. Within the context of the agreement and despite an existing obligation to surrender, we may retain received or generated goods, products, property rights, data, documents, databases and results of our services until such a time that the opposite party has paid all the amounts owed to us.

Art. 12 // Shipment and risk

1. Risk related to the goods is transferred at such a time that the goods are made available to the opposite party in accordance with the agreement, unless otherwise agreed.
2. The previous stipulation likewise applies in accordance with the agreement in equal measure, whether the goods are dispatched from our warehouse or are shipped from China, unless otherwise agreed.
3. If and insofar as it has been agreed that we will handle shipment, the storage, loading, shipment and unloading remains for the account and at the risk of the opposite party, unless explicitly stipulated otherwise. The opposite party must arrange insurance to cover the aforementioned risk.
4. Costs related to arranging possible specific wishes of the opposite party in terms of shipment/postage are for the account of the opposite party.

Art. 13 // Industrial property rights and copyright

1. When accepting orders from consumers, our distributors use our intellectual property.
2. All intellectual property rights pertaining to offers, software, websites, databases, equipment or other materials, including materials used for preparation purposes, developed and made available by us, are reserved by us and do not belong to our distributors.
3. With the exclusion of all other parties, we hold the rights to realisation, disclosure and reproduction.
4. Without our express written permission, our distributors are not permitted to reuse offers belonging to us that are not aimed at consumers. In terms of resale to consumers, our distributors must employ the recommended prices intended for this purpose.
5. We may attach conditions to the granting of permission as mentioned in section 4. This may include a monetary payment.

Art. 14 // Liability

1. We can only be held liable insofar as determined by the law (of the Netherlands).
2. In all cases, our liability is limited to the amount paid out by our insurer for the case in question. Under no circumstances will our liability exceed the total order amount.
3. With the exception of general rules of public order and good faith, we cannot be held liable for compensation of losses of any nature whatsoever, either direct or indirect, including consequential loss to moveable or immovable property, or to persons related to the opposite party or other parties.
4. All consequences of the use of supplied goods by or under control of the opposite party are the responsibility of the opposite party. We can never be held liable for losses resulting from or caused by the use or unsuitability of the supplied goods for purposes other than intended.
5. We can, in particular, not be held liable for losses of any nature whatsoever resulting from the incorrect use of our products once they have been delivered. Incorrect use, in all cases but not exclusively, implies: use other than or in conflict with our directions for use (on the website).
6. We also cannot be held liable for losses of any nature whatsoever that are suffered after our products have been taken into use, are processed or adapted and supplied to other parties. Our distributors must point this out to consumers and indemnify us from all losses suffered by other parties as the result of the use of our products (whether such use is improper or not).
7. With respect to goods supplied by us, we can only be held liable for defects if we have produced the goods in question ourselves and have supplied the goods directly to the opposite party in a defective state. However, this is only the case if it can be proven that the defects can be attributed to us.
8. If one or more of the goods supplied by us are inferior, our liability can never extend beyond the degree to which the supplier of the goods in question can be held liable by us.
9. We cannot be held liable for losses of any nature whatsoever arising from our use of incorrect and/or incomplete details provided by the opposite party, unless such incorrect or incomplete details should have been known to us.
10. We cannot be held liable for losses suffered as a result of the delayed supply of goods if such is a consequence of circumstances in which compliance cannot within reason be expected of us.
11. The opposite party indemnifies us from all (third-party) product liability claims resulting from product defects and will, in such cases, directly approach the manufacturer.
12. What has been stipulated in this article also applies in favour of all legal entities/persons that we cooperate with for the purpose of execution of the agreement.

Art. 15 // Force Majeure

1. "Force majeure" implies: all circumstances, unforeseen and/or not linked to the parties, which mean that observance of the agreement can no longer be reasonably expected from the other party. This includes strike action within our company.
2. The party that claims to be affected by (expected) force majeure must immediately inform the other party.
3. If, in our opinion, the force majeure is of a temporary nature, we reserve the right to suspend execution of the agreement until such a time that the circumstances causing the force majeure have abated.
4. If, in our opinion, the force majeure is of a lasting nature, the parties can make arrangements about the dissolution of the agreement and related consequences. In such a case, the parties are not entitled to compen-

sation for losses that they have suffered or will suffer, unless otherwise agreed.

5. We also reserve the right to invoke force majeure if the circumstance that hinders (continued) fulfilment takes effect after we should have fulfilled our obligation.
6. We are entitled to claim payment for what has already been achieved in accordance with the agreement. In such a case, settlement takes place on a proportionate basis, without the parties owing each other anything else.

Art. 16 // Complaints

1. Possible complaints related to visible defects or invoices are only considered if received directly by us in writing within 8 days of delivery and/or invoice date. And, in the case of hidden defects, only if inspection has taken place in good time and the nature and basis of complaints have been detailed.
2. Once goods have been taken into use and this period has lapsed, the opposite party is deemed to have approved the supplied goods or invoice. After such a time, we will no longer consider complaints.
3. Only if and insofar as a complaint is found to be legitimate will the payment obligation of the opposite party be suspended until the time the complaint has been settled.
4. Returns of supplied goods can only take place once we have granted prior written permission.

Art. 17 // Warranties

1. Our opposite party must explicitly inform (or order the informing of) the end user/consumer:
 - a. that the supplied goods may only be used according to the directions for use (on the website);
 - b. that the warning label on or attached to the supplied goods must be observed and may never be removed;
 - c. that if the supplied goods display flaws or defects, they may no longer be used.
2. Our opposite party can only lodge warranty claims against us if the consumer has fully completed the warranty card included with the supplied item and has registered the item with FemStar Innovations BV, online via www.fem-star.com or by post (proof of postage required).
3. Warranties are only honoured in accordance with the conditions on the warranty card and only if our opposite party and the consumer have complied with the stipulations in section 1.

Art. 18 // Applicable law

1. All our offers and agreements and their execution are exclusively governed by the law of the Netherlands.
2. The Vienna Convention is explicitly excluded. Other international regulations that could be applicable to the agreement are likewise excluded insofar as the regulation in question permits exclusion.

Art. 19 // Disputes

1. All disputes, including those only considered as such by a single party, arising from or related to the agreement to which these terms and conditions apply, or arising from the terms and conditions themselves and their interpretation or execution, both practical and legal by nature, will be settled by the competent civil court that presides in the jurisdiction where our headquarters are located.
2. The parties will only approach the court once they have done all in their power to settle a dispute by means of mutual cooperation.
3. We nonetheless reserve the right to have a dispute settled by means of arbitration or mediation, in which case we will inform the opposite party in writing. Costs will be for the account of the parties as determined by the arbitrators.

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