

General Terms and Conditions of Sale of EMDATEC GmbH

§ 1 Scope of application, form

(1) These General Terms and Conditions of Sale (GTC) apply to all our business relationships with our customers ("Buyers"). The GTC shall only apply if the Buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.

(2) The GTC apply for contracts for the sale and/or delivery of movable goods ("goods"), regardless of whether we manufacture the goods ourselves or purchase them from suppliers.

(3) Our GTC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the buyer shall only become part of the contract if and to the extent that we have expressly agreed to their validity. This consent requirement applies in any case, for example even if we carry out the delivery to him without reservation in knowledge of the buyer's terms and conditions.

(4) Individual agreements made with the buyer in individual cases (including ancillary agreements, additions and changes) shall in any case take precedence over these GTC. Subject to proof to the contrary, a written contract or our written confirmation shall be decisive for the content of such agreements.

(5) Legally relevant declarations and notifications of the buyer with regard to the contract (e.g., setting of a deadline, notification of defects, withdrawal or reduction) must be made in writing, i.e., in written or text form (e.g., letter, e-mail). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declarant, remain unaffected.

(6) References to the validity of legal regulations have only clarifying meaning. Therefore, even without such clarification, the statutory provisions shall apply, unless they are directly amended or expressly excluded in these GTC.

§ 2 Contract

(1) Our offers are marked either as a "subject to change and non-binding offer" or as an "offer". This also applies if we have provided the buyer with catalogues, technical documentation (e.g., drawings, plans, calculations, references to DIN standards), other product descriptions or documents – also in electronic form – to which we reserve ownership rights and copyrights.

(2) We are bound by our offer marked as "offer" for the period resulting from the offer. If the buyer orders the goods within this period, the contract is concluded directly with the buyer's order or by another confirmation of the offer by the buyer or by delivery of the goods to the buyer.

(3) If our offer is marked as a "subject to change and non-binding offer", the order of the goods by the buyer shall be deemed to be a binding contractual offer. Unless otherwise stated in the order, we are entitled to accept this contract offer within two weeks of its receipt by us. Acceptance can be declared by us either in writing (e.g., by order confirmation) or by delivery of the goods to the buyer.

§ 3 Delivery period and delay in delivery

(1) The delivery period is agreed individually or specified by us upon acceptance of the order.

(2) If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (unavailability of the service), we will inform the buyer immediately and at the same time inform the expected new delivery period. If the service is also not available within the new delivery period, we are entitled to withdraw from the contract in whole or in part; we will immediately reimburse any consideration already provided by the buyer. In particular, the non-availability of the service in this

sense shall be deemed to be the non-timely self-supply by our supplier if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or if we are not obliged to procure in individual cases.

(3) The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the buyer is required.

(4) The rights of the buyer according to § 8 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g., due to impossibility or unreasonableness of the service and/or subsequent performance), remain unaffected.

§ 4 Delivery, transfer of risk, acceptance, default of acceptance

(1) Unless otherwise agreed in individual cases, delivery shall be made DAP Incoterms 2020 to the place of destination specified in the binding offer or in the order confirmation.

(2) In the case of delivery in accordance with DAP Incoterms 2020, the delivered goods must be inspected for transport damage upon delivery by the buyer; Transport damage must be entered in the carrier's transport documentation upon delivery and notified to us immediately. We are not liable for transport damage caused by a lack of documentation of the buyer at the time of delivery.

(3) If the buyer is in default of acceptance, fails to cooperate or our delivery is delayed for other reasons for which the buyer is responsible, we are entitled to demand compensation for the resulting damage, including additional expenses (e.g., storage costs). For this purpose, we charge a lump-sum compensation of 0.5% of the net price (delivery value) for each completed calendar week of default of acceptance, but in total no more than 5% of the net price, starting with the delivery period.

The proof of higher damages and our statutory claims (in particular compensation for additional expenses, appropriate compensation, termination) remain unaffected; however, the lump sum is to be offset against further monetary claims. The buyer is permitted to prove that we have incurred no damage at all or only a significantly lower damage than the above lump sum.

§ 5 Prices and terms of payment

(1) Unless otherwise agreed in individual cases, our current prices at the time of conclusion of the contract, namely DAP Incoterms 2020 to the destination named in the binding offer or in the order confirmation, plus statutory value added tax, shall apply.

(2) The purchase price is due and payable within 8 days of invoicing and delivery of the goods. However, even in the context of an ongoing business relationship, we are entitled at any time to carry out a delivery in whole or in part only against advance payment. We declare a corresponding reservation at the latest with the order confirmation.

(3) Upon expiry of the above payment period, the buyer shall be in default. The purchase price shall bear interest during the delay at the applicable statutory default interest rate. We reserve the right to assert further damage caused by default. With regard to merchants, our claim to the commercial maturity interest (§ 353 HGB) remains unaffected.

(4) The buyer is only entitled to rights of set-off or retention to the extent that his claim has been legally established or is undisputed. In the event of defects in the delivery, the buyer's counter-rights shall remain unaffected, in particular in accordance with § 7 (7) sentence 2 of these GTC.

(5) If, after conclusion of the contract, it becomes apparent (e.g., by filing for the opening of insolvency proceedings) that our claim to the purchase price is endangered by the buyer's inability to pay, we are entitled to refuse performance in accordance with the statutory provisions and – if

necessary, after setting a deadline – to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (custom-made products), we can declare withdrawal immediately; the statutory provisions on the dispensability of setting a deadline remain unaffected.

§ 6 Ownership

(1) Until full payment of all our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims), we reserve title to the goods sold.

(2) the buyer must treat the goods subject to retention of title with care. He must insure them sufficiently at his own expense against fire, water and theft damage at their new value.

(3) The goods subject to retention of title may neither be pledged to third parties nor transferred as security before full payment of the secured claims. The buyer must notify us immediately in writing if an application for the opening of insolvency proceedings has been filed or if third parties (e.g., seizures) have access to the goods belonging to us.

(4) In the event of breach of contract by the buyer, in particular in the event of non-payment of the purchase price due, we are entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The request for surrender does not at the same time include the declaration of withdrawal; rather, we are entitled to demand only the return of the goods and to reserve the right to withdraw from the contract. If the buyer does not pay the purchase price due, we may only assert these rights if we have previously set the buyer a reasonable deadline for payment without success or if such a deadline is dispensable according to the statutory provisions.

(5) Until revoked in accordance with (c) below, the buyer is entitled to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.

(a) The retention of title extends to the products resulting from the processing, mixing or combination of our goods at their full value, whereby we are considered the manufacturer. If, in the event of processing, mixing or combination with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.

(b) The claims against third parties arising from the resale of the goods or the product are hereby assigned by the buyer to us as security in total or in the amount of our possible co-ownership share in accordance with the preceding paragraph. We accept the assignment. The obligations of the Buyer referred to in paragraph 3 shall also apply with regard to the assigned claims.

(c) In addition to us, the buyer remains authorized to collect the claim. We undertake not to collect the claim as long as the buyer fulfils his payment obligations to us, there is no defect in his ability to pay and we do not assert the retention of title by exercising a right pursuant to paragraph 4. However, if this is the case, we can demand that the buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the associated documents and notifies the debtors (third parties) of the assignment. In addition, in this case we are entitled to revoke the buyer's authorization to further sell and process the goods subject to retention of title.

(d) If the realisable value of the securities exceeds our claims by more than 10%, we will release securities of our choice at the request of the buyer.

§ 7 Buyer's claims for defects

(1) For the rights of the buyer in the event of material defects and defects of title (including incorrect and short delivery as well as improper assembly or defective assembly instructions), the statutory provisions shall apply, unless otherwise specified below. In all cases, the statutory special provisions remain unaffected in the case of final delivery of the unprocessed goods to a consumer, even if he has further processed them (supplier recourse according to §§ 478 BGB). Claims arising from supplier recourse are excluded if the defective goods have been further processed by the buyer or another entrepreneur, e.g., by installation in another product.

(2) The basis of our liability for defects is above all the agreement made on the quality of the goods.

(3) Insofar as the quality has not been agreed, it is to be assessed according to the statutory regulation whether a defect exists or not (§ 434 para. 1 sentence 2 and 3 BGB). However, we assume no liability for public statements by the manufacturer or other third parties (e.g., advertising statements) to which the buyer has not pointed out to us as decisive for his purchase.

(4) Defective goods do not exist (a) in the case of only insignificant deviations from the agreed quality, e.g. due to production tolerances, (b) in the case of only insignificant impairment of usability, (c) in the case of natural wear and tear as well as in the event of damage, (d) which arise after the transfer of risk as a result of incorrect or negligent handling, incorrect storage, excessive stress, unsuitable operating resources, defective construction work, faulty building construction, unsuitable subsoil or (e) due to special external influences or weather that are not assumed under the contract.

(5) In principle, we are not liable for defects that the buyer knows at the time of conclusion of the contract or is grossly negligent (§ 442 BGB). Furthermore, the buyer's claims for defects presuppose that he has fulfilled his statutory inspection and notification obligations (§§ 377, 381 HGB). In the case of building materials and other goods intended for incorporation or other further processing, an examination must in any case be carried out immediately before processing. If a defect is revealed during delivery, inspection or at any later date, we must be notified of this immediately in writing. In any case, obvious defects must be reported in writing within five working days of delivery and defects not recognizable during the inspection within the same period of time from discovery. If the buyer fails to properly inspect and/or report defects, our liability for the defect not or not reported in time or not properly reported is excluded in accordance with the statutory provisions.

(6) If the delivered item is defective, we can initially choose whether we provide supplementary performance by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery). Our right to refuse supplementary performance under the statutory conditions remains unaffected.

(7) We are entitled to make the subsequent performance owed dependent on the buyer paying the purchase price due. However, the buyer is entitled to retain a reasonable part of the purchase price in relation to the defect.

(8) The buyer must give us the time and opportunity necessary for the subsequent performance owed, in particular to hand over the goods complained of for inspection purposes. In the event of a replacement delivery, the buyer must return the defective item to us in accordance with the statutory provisions. Subsequent performance does not include the removal of the defective item or the re-installation if we were not originally obliged to install it.

(9) We shall bear or reimburse the expenses required for the purpose of inspection and subsequent performance in accordance with the statutory provisions if a defect actually exists. Otherwise, we may demand reimbursement from the buyer for the costs incurred as a result of the unjustified

request to remedy the defect (in particular inspection and transport costs), unless the lack of defectiveness was not recognizable to the buyer.

(10) Claims of the buyer for damages or reimbursement of futile expenses exist even in the case of defects only in accordance with § 8 and are otherwise excluded.

§ 8 Other liability

(1) Unless otherwise stated in these GTC, including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions.

(2) We shall be liable for damages – regardless of the legal grounds – within the scope of fault liability in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g., care in our own affairs; insignificant breach of duty).

a) for damages alike due to injury to life, limb or health,

b) for damages resulting from the breach of an essential contractual obligation (obligation the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which the contractual partner regularly relies and may rely); in this case, however, our liability is limited to compensation for the foreseeable, typically occurring damage.

(3) The limitations of liability resulting from paragraph 2 shall also apply to third parties and to breaches of duty by persons (also in their favour) whose fault we are responsible for in accordance with statutory provisions. They do not apply if a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the buyer under the Product Liability Act.

(4) Due to a breach of duty that does not consist of a defect, the buyer can only withdraw or terminate if we are responsible for the breach of duty. A free right of termination of the buyer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

§ 9 Prescription

(1) Notwithstanding § 438 (1) No. 3 BGB (German Civil Code), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period begins with acceptance.

(2) If the goods are a building or an item that has been used for a building in accordance with its usual use and has caused its defectiveness (building material), the limitation period in accordance with the statutory regulation is 5 years from delivery (§ 438 para. 1 no. 2 BGB). Other statutory special provisions on the statute of limitations (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 445b BGB) also remain unaffected.

(3) The above limitation periods of the sales law also apply to contractual and non-contractual claims for damages of the buyer based on a defect in the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. Claims for damages by the buyer in accordance with § 8 (2) sentence 1 and sentence 2 (a) as well as under the Product Liability Act shall become statute-barred exclusively in accordance with the statutory limitation periods.

§ 10 Choice of law and place of jurisdiction

(1) These GTC and the contractual relationship between us and the buyer shall be governed by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Sales Law.

(2) If the buyer is a merchant within the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our registered office in 48282 Emsdetten, Germany. The same applies if the buyer is an entrepreneur within the sense of § 14 BGB (German Civil Code). However, in all cases we are also entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTC or a priority individual agreement or at the general place of jurisdiction of the buyer. Overriding statutory provisions, in particular on exclusive competences, remain unaffected.

Issue: November 2021