

General Terms and Conditions of Sale (GTC)

of Emil Germany GmbH

1 Validity of the GTC

- 1.1 These GTC apply to all sales and deliveries of goods to our customers. The GTC apply only if the customer is an entrepreneur (para. 14 German Civil Code, *BGB*), a legal entity under public law or a special fund under public law. These GTC do not apply to consumers (para. 13 German Civil Code, *BGB*).
- 1.2 Any terms and conditions of purchase of the customer referred to by the customer prior to or upon conclusion of the contract shall not apply if and to the extent that they are inconsistent with these GTC. In any case, the customer's terms and conditions of purchase shall only apply if we have expressly agreed to them; the unconditional execution of the transaction shall not be deemed to be an agreement on our part to the validity of the customer's terms and conditions of purchase.

2 Offers and Orders

- 2.1 Unless otherwise stated in the offer, our offers are valid for a period of 14 days from the date of the offer; they may be revoked informally at any time until we receive the declaration of acceptance. An order placed by the customer after the expiry of the validity period of our offer shall be deemed to be an offer to contract with us.
- 2.2 Notwithstanding the foregoing, the customer shall be obliged to check our offer without undue delay for obvious errors, ambiguities (in particular with regard to the specifications), incompleteness and unsuitability of the specifications for the use required under the contract and to notify us without undue delay of any necessary changes or clarifications to the offer so that we can resubmit an offer which is corrected with regard to the customer's subjective requirements but which is nonetheless non-binding.
- 2.3 If the customer's orders are not placed in response to our specific offer, they shall be deemed to be a binding offer to contract. Unless otherwise stated in the order, we are entitled to accept this contractual offer within 30 days of its receipt by us (even informally). Acceptance may also take the form of delivery of the goods to the customer.

3 Brochures, Plans and Technical Documents

- 3.1 Our brochures and catalogues are not binding unless otherwise agreed. Specifications in technical documents are only binding if they have been expressly assured.
- 3.2 We reserve all rights to plans and technical documents which we have handed over to the customer; the provisions in clause 9 apply.

4 Prices

- 4.1 Unless otherwise stated in our quotation, the prices in force at the time of the customer's order shall apply. The current prices can be requested from us at any time.
- 4.2 The prices quoted by us are always net prices and do not include statutory value added tax. Unless otherwise agreed, the underlying prices are ex works and exclusive of packaging, transport costs and any insurance premiums (transport insurance).
- 4.3 Unless expressly stated otherwise in our quotation or in the acceptance of order, the

customer shall not be entitled to any discount.

5 Delivery and Delay

- 5.1 Unless otherwise agreed, we deliver the goods EXW Sälzerstr. 7 Industriegebiet Fackelhahn, 56424 Ebernhahn, Germany (INCOTERMS 2020).
- 5.2 If no delivery periods have been agreed, we are obliged to deliver the goods within 90 days of the conclusion of the purchase contract. The delivery period shall commence upon conclusion of the purchase contract, but not before receipt of any advance payment (deposit) agreed in the individual contract.
- 5.3 Delivery periods shall in all cases be extended by the period by which the customer fails to fulfil its obligations to us, and we shall be entitled to and shall exercise a right of retention against the customer.
- 5.4 We are entitled to make partial deliveries at any time, provided that this does not result in additional costs for the customer.
- 5.5 Our default in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the customer is required. In the event of a delay in delivery, we shall not be obliged to pay a contractual penalty and/or liquidated damages.
- 5.6 If we are unable to comply with bindingly agreed delivery dates for reasons for which we are not responsible (non-availability of the service), we shall inform the customer without delay and at the same time inform the customer of the expected new delivery date. If the service is still not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the customer. A case of non-availability of the service in this sense is in particular the untimely self-delivery by our supplier, if we have concluded a congruent hedging transaction, if neither we nor our supplier are at fault or if we are not obliged to procure in the individual case.
- 5.7 If the customer is in default of acceptance or in breach of any other obligation to cooperate, we shall be entitled to claim compensation for the damage we have suffered, including any additional expenditure. In this case, the material and price risk, in particular also the risk of accidental loss or accidental deterioration of the object of sale, shall pass to the customer. We reserve the right to further contractual or statutory claims.

6 Terms of Payment and Retention of Title

- 6.1 Unless otherwise agreed, the purchase price shall be due and payable within 14 days of delivery. The customer will receive an invoice from us, but the receipt of the invoice is not a condition for the due date of our purchase price claim.
- 6.2 Upon expiry of the aforementioned payment period, the customer shall be in default. During the period of default, interest on the purchase price shall be charged at the statutory rate of interest on arrears. We reserve the right to claim further damages caused by default, including the statutory lump sum for default costs. In the case of merchants, our claim to the commercial interest on arrears (§ 353 HGB) remains unaffected.
- 6.3 The customer shall only be entitled to rights of set-off or retention to the extent that his

- claim has been legally established or recognised by us or is undisputed.
- 6.4 All goods shall remain our property (reserved property) until all claims to which we are entitled against the customer have been satisfied, including claims which have arisen but become due at a later date. This shall also apply if payments are made on specially designated claims. In the case of a current account, the reserved property shall serve as security for the balance claim.
- 6.5 We may at any time prohibit the sale of the goods subject to retention of title if the customer is in arrears with his payment obligations to us and/or has become insolvent.
- 6.6 If the customer resells the goods subject to the contract in an unprocessed or processed state, he shall be entitled to resell the goods subject to retention of title in the ordinary course of business. He hereby assigns to us his claims from the resale in the amount of the invoice value of the reserved goods. The right to resell is subject to the validity of the assignment. This shall also apply mutatis mutandis if the reserved goods are used by the customer to fulfil a contract for work and services or a contract for work and materials, in particular in the case of construction companies; in this case the customer shall also assign to us in advance the claim arising from the contract for work and services or the contract for work and materials in the amount of the invoice value of the reserved goods.
- 6.7 The customer is not entitled to transfer the reserved goods to third parties by way of security, to pledge them or to barter with them.
- 6.8 The customer is entitled to collect claims from resale until revocation, which we are entitled to at any time, including verbal revocation. Upon our request, the customer is obliged to inform the third party debtor of the assignment to us, to notify us of this notification and to send us the information and documents necessary for the collection of the assigned claims together with this notification. The customer must inform us immediately of any attachments or other impairments by third parties.
- 6.9 In particular, we shall be entitled to take back the goods subject to retention of title if the customer has exceeded the payment period granted to him or has not paid other liabilities to us on time or is in default or does not fulfil his obligations under these terms and conditions.
- 6.10 If the customer includes his claims from a resale of such materials to which we have a simple, extended or prolonged reservation of title in a current account relationship, he hereby assigns to us the current account claim in the amount of the value of the reserved goods. After the balance has been settled, the accepted balance shall replace the original balance and shall be deemed to have been assigned up to the amount of the original current account claim.
- 6.11 We are obliged to release the securities to which we are entitled at the customer's request to the extent that the realised value of our securities exceeds the claims to be secured by more than 10%; the choice of the securities to be released is ours.

7 Warranty

- 7.1 The goods delivered by us are free from defects if they meet the subjective requirements (§ 434 para. 2 BGB) and the installation requirements (§ 434 para. 4 BGB) at the time of the passing of risk. However, it is not a prerequisite for the goods to be free of defects

- that they meet the objective requirements of § 434 para. 3, if and to the extent that the customer and we have agreed on the subjective requirements of the goods.
- 7.2 We are not obliged to carry out an outgoing goods inspection beyond the statutory provisions.
- 7.3 Our goods are manufactured using natural additives. They may therefore be subject to certain variations such as efflorescence or colour variations. Deviations, changes or tolerances within the scope of DIN standards represent only an insignificant deviation from the agreed quality and therefore do not constitute defects. In particular, minor colour deviations of the delivered goods from illustrations in brochures or any product samples provided to the customer prior to the conclusion of the contract shall not constitute a defect.
- 7.4 The customer shall inspect the delivered goods immediately after delivery in accordance with the provisions of § 377 HGB. Obvious defects must be reported immediately. The date on which the complaint is received by us shall be decisive. Defects which cannot be discovered within this period, even with the most careful inspection, must be reported immediately after discovery. If a complaint is not made in good time, the customer shall not be entitled to any warranty claims, unless the defect in question has been fraudulently concealed by us. The customer shall bear the burden of proof for all claims, in particular for the defect itself, for the time of discovery of the defect and for the timeliness of the notice of defect.
- 7.5 Subsequent performance shall be effected, at our discretion, by repair or replacement.
- 7.6 If the customer claims a defect although there is no defect, we shall be entitled to reimbursement of the internal and external expenses incurred. These expenses shall amount to at least EUR 50.00, unless the customer proves that the expenses were lower.
- 7.7 If the supplementary performance fails, the customer may, at his discretion, demand a reduction of the remuneration (abatement) or rescission of the contract (withdrawal). However, in the event of only a minor breach of contract, in particular in the event of only minor defects, the customer shall not be entitled to withdraw from the contract.
- 7.8 We do not provide any warranty for our goods; the customer is therefore only entitled to warranty claims in accordance with these GTC.
- 7.9 Claims for defects shall not exist in the case of natural wear and tear or damage arising after the transfer of risk as a result of faulty or negligent handling, unsuitable equipment, defective construction work, unsuitable building land or as a result of special influences which are not assumed under the contract. If the customer or third parties carry out improper modifications or repair work, no claims for defects shall exist for these and the resulting consequences.
- 7.10 All claims for defects against us shall become statute-barred one year after delivery, unless we have granted other (longer) limitation periods in individual cases. Sentence 1 above shall not apply to claims for reimbursement of expenses (§ 445a BGB) and other warranty claims of the customer pursuant to § 437 BGB in the case of so-called supplier

recourse (§ 478 BGB), in which case § 445b para. 2 BGB shall apply.

8 Limitation of liability

- 8.1 In case of claims for damages, our liability is limited to damages caused intentionally or grossly negligently. Liability for other forms of negligence is excluded, unless the damage was caused by us through
- injury to life, body or health,
 - defects in the goods, to the extent that liability for personal injury and damage to property is accepted in accordance with the provisions of the German Product Liability Act, or
 - defects which have been fraudulently concealed or if we have assumed a guarantee for the condition of the goods,
 - the breach of fundamental contractual obligations. In the event of a slightly negligent breach of essential contractual obligations, our liability shall, however, be limited to the amount of the reasonably foreseeable damage typical for the contract. Fundamental contractual obligations are obligations that are essential for the contract to be duly performed and that the buyer relies on being able to comply with.
- 8.2 Insofar as our liability is excluded or limited, this shall also apply in favour of our legal representatives, employees, subcontractors and vicarious agents in the event of direct claims against them by the customer.
- 8.3 The above provisions do not imply a change in the burden of proof to the detriment of the customer.
- 8.4 We shall only be obliged to reimburse the lawyer's fees and expenses to be calculated in accordance with the German Lawyers' Fees Act (*RVG*) as compensation if the customer asserts a claim against us for the lawyer's fees and expenses incurred.

9 Force majeure

- 9.1 Events of force majeure shall entitle us to postpone delivery for the duration of the hindrance plus a subsequent reasonable start-up period. Events of force majeure are circumstances for which we are not responsible, in particular monetary, trade policy or other sovereign measures, epidemics and pandemics, strikes, lock-outs, significant operational disruptions (e.g. fire, machine breakdown, raw material or energy shortage or shortage for any reason whatsoever, including in particular also due to delivery bottlenecks, performance disruptions or other supply difficulties of raw material suppliers, disruptions in the packaging and handling process or transport bottlenecks) and obstructions to transport routes which are not of a short-term nature and which make delivery significantly more difficult or impossible.
- 9.2 We shall notify the customer immediately of events of force majeure.
- 9.3 Both parties are entitled to withdraw from the contract if the hindrance lasts longer than three months. In the case of a partial delivery that has already been made, the customer shall only be entitled to withdraw from the contract in respect of the part of the delivery that has not yet been made under the above conditions. Payment for a partial delivery already made may not be refused on the grounds of the unfulfilled part

of the delivery.

10 Pallets and Returnable Packaging

- 10.1 Where an agreement is made to supply goods on pallets, we shall be entitled, at our discretion, to deliver on Euro pool pallets measuring 800 x 1200 mm or on disposable pallets. Delivery on Euro pallets shall, at our discretion, be made on an exchange basis, i.e. the same number of undamaged empty pallets (Euro pool pallets only) shall be provided in exchange for the pallets delivered with the goods or a pallet note shall be issued. Euro pool pallets returned to us damaged but repairable will be invoiced at the cost of repair, damaged but non-repairable Euro pool pallets will be invoiced at replacement value, unless the customer is not responsible for the return of damaged Euro pool pallets. If the customer, contrary to his obligation to exchange or to present the pallet note, does not provide Euro pool pallets as empty pallets or does not provide them in sufficient numbers, he shall, after having been given a reasonable period of time to do so, provide such pallets or, unless he proves that he is not responsible for the breach of his obligation to exchange, he shall, at our discretion, pay us an amount equal to the replacement value. The risk of Euro pool pallets provided by the customer for exchange shall pass to us when they are handed over to us. If delivery is made on non-returnable pallets, the customer shall be responsible for re-palletising and disposing of the pallets.
- 10.2 Insofar as Eurodisplay pallets are used, these are generally CHEP pallets which remain with the customer and are collected by CHEP. The same applies if 1/1 CHEP is used as the (basic) load carrier.
- 10.3 The following provisions apply to other loan packaging provided by us, such as glass A-frames (including accessories such as lashing straps and fixing materials), which are sent to the customer and collected again on a return route organised by us, and loading aids: The loan packaging provided by us and any loading aids are not sold with the goods and remain our property. They must be returned to us within 30 days at the latest in order to guarantee the return process. They must be handled with care and must not be used for any purpose other than the storage of the delivery. The customer shall be liable for any damage resulting from a breach of the above obligations by the customer, unless the customer is not responsible for the breach. Return of the returnable packaging and loading aids must be made immediately after emptying in perfect, usable condition to the specified or agreed place of acceptance. If returnable packaging and/or loading aids are not returned, we shall be entitled to invoice them at replacement value after setting and expiry of a reasonable period (30 days). If returnable packaging or loading aids become unusable, we shall be entitled to charge for them at their replacement value, unless the customer is not responsible for the unusability.
- 10.4 The return of non-returnable packaging is subject to the provisions of the German Packaging Act (*VerpackG*) in force at the time of conclusion of the contract and any supplementary agreements..

11 Voluntary Cancellation

- 11.1 If the customer wishes to cancel an order in whole or in part after we have accepted it, this shall constitute a (partial) withdrawal from the contract. If the customer is not

contractually and/or legally entitled to such a right of withdrawal, the cancellation shall only become effective after we have agreed to it in writing, without us being obliged to agree to a cancellation by the customer (hereinafter "Voluntary Cancellation").

- 11.2 If we agree to a Voluntary Cancellation, this shall be subject to the condition precedent that the customer reimburses us for the costs incurred in connection with the commenced performance and rescission of the contract. Our claim for reimbursement of costs includes in particular any costs of commissioning, packaging, transport and insurance.
- 11.3 At the customer's request, we will inform the customer of the costs associated with Voluntary Cancellation before we issue a voluntary cancellation.

12 Confidentiality

- 12.1 The customer is obliged to treat all documents and information (hereinafter referred to as "Confidential Information") received in connection with the contract concluded with him and not generally accessible as strictly confidential and to keep all physical and electronic documents and materials containing Confidential Information separate from other documents, materials and records and to protect them from unauthorised access. The customer is not entitled to make the Confidential Information available to third parties without our prior written consent.
- 12.2 The customer must notify us immediately of any actual or threatened unauthorised use of Confidential Information and take all reasonable steps to prevent or stop such use.
- 12.3 At our reasonable request, the customer shall provide us with a list of those persons to whom the Confidential Information has been disclosed in breach of the contract, in accordance with the provisions of the data protection laws.
- 12.4 If the customer is or becomes obliged to disclose Confidential Information because of a legal obligation or a governmental or judicial order, the customer shall notify us without undue delay after becoming aware of the disclosure obligation and shall determine with us whether and by what means a defence to the disclosure obligation can be achieved. Any disclosure must be limited to the minimum necessary and agreed with us in good time.
- 12.5 We reserve all rights to our Confidential Information. Disclosure of Confidential Information does not constitute the grant of any licence or other right to use it, regardless of its content or scope.
- 12.6 In the event that the customer fails to fulfil its obligation under clause 12.1 the customer undertakes to pay to us, for each individual case, a contractual penalty the amount of which may be determined by us at our reasonable discretion, waiving the defence of continuation of the contract. The amount of the penalty may be challenged by the customer in a court of law.
- 12.7 In the event of a continuing other use of the Confidential Information, the contractual penalty pursuant to clause 12.6 shall be forfeited for each commenced week of the breach.
- 12.8 Subject to the provisions of this clause 12 our right to claim further damages from the customer shall remain unaffected. The contractual penalty may not be set off against

any claim for damages.

13 Choice of Law and Place of Jurisdiction

- 13.1 These GTC and the contractual relationship between us and the customer shall be governed by the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 13.2 The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Hamburg, Germany.

14 Final Provisions

- 14.1 Should one of the provisions of these GTC be or become invalid, this shall not affect the validity of the remaining provisions; para. 139 of the German Civil Code (*BGB*) shall not apply. The invalid provision shall be deemed to be replaced by a provision which comes as close as possible to the economic purpose of the invalid provision. The same applies to an unintentional loophole in the contract concluded with the customer.
- 14.2 Amendments and supplements to these GTC must be made in writing. Individual agreements made with the customer in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these GTC. Unless proven otherwise, a written contract or our written confirmation shall be decisive for the content of such agreements.

Status: June 2023