

## GENERAL TERMS AND CONDITIONS (GTCs) OF EMIL KAMMERER GMBH

The 'customer' below refers to the respective customer who has submitted the order via e-mail, fax or post.

For use with regard to:

1. A person who concludes the contract while exercising their commercial or independent professional activity (entrepreneur);
2. Legal entities under public law or a special fund under public law.

### I. General information

1. These terms and conditions form the basis of all deliveries and services. Deviating conditions of purchase from the customer do not become content of the contract, even upon acceptance of an order.

A contract is entered into when Emil Kammerer GmbH issues confirmation of the order. If the customer identifies deviations from his order, he is to report these to Emil Kammerer GmbH immediately in writing. The contractual relationship is then entered into when a new confirmation of order is issued.

2. Emil Kammerer GmbH reserves the property and copyrights to samples, quotations, technical drawings, test sliders and similar information of a physical or non-physical kind – including in an electronic form; they may not be made accessible to third parties, or only with the prior written approval of Emil Kammerer GmbH. Technical drawings and instruction manuals are to be used for operating and maintenance purposes. Third parties may in no way be made aware of these. Dimensional and weight information is non-binding.

Emil Kammerer GmbH commits to only make any information and documents that are designated as confidential by the customer available to third parties with the written consent of the customer.

### II. Price and payment

1. Unless otherwise agreed, the prices apply ex works including loading in the factory, however excluding packaging and unloading. The value-added tax in the respective statutory amount is also added to the prices.

The prices on the order confirmation from Emil Kammerer GmbH are binding.

2. Without a separate agreement, the payment is to be made into the account of Emil Kammerer GmbH without any deductions, and for the full amount following delivery and in accordance with the agreed payment arrangements set out in writing on the order confirmation.

### III. Delivery time, delivery delay

1. The delivery time is based on the agreements of the contractual parties. The confirmation of order from Emil Kammerer GmbH is decisive for the delivery time. The observance of the delivery time by Emil Kammerer GmbH requires that all commercial and technical matters between the contractual parties are clarified and the customer fulfils all of his obligations. If this is not the case, the delivery time is extended appropriately. This does not apply if Emil Kammerer GmbH is responsible for the delay.
2. The observance of the delivery time is subject to correct and timely delivery to Emil Kammerer GmbH. Emil Kammerer GmbH reports as soon as possible on any delays that arise.
3. The delivery time shall be considered observed if, by its expiration, the deliverable has left the factory of Emil Kammerer GmbH or the customer has been informed of its readiness for despatch. Where an acceptance is to be carried out, the acceptance date is decisive - except upon a legitimate acceptance refusal, or, alternatively, the report of readiness for acceptance.
4. If the despatch or acceptance of the deliverable is delayed for reasons for which the customer is responsible, the costs that are incurred by the delay are charged to him, beginning one month following the report of readiness for despatch or acceptance.
5. If the non-observance of the delivery time is due to force majeure, industrial action or other events that lie outside of the field of influence of Emil Kammerer GmbH, the delivery time is extended accordingly.
6. The customer can withdraw from the contract without a period of notice if it is ultimately impossible for Emil Kammerer GmbH to render the entire performance before the passing of risk.

If the impossibility or inability occurs during the acceptance delay or the customer is solely or predominantly responsible for these circumstances, he remains obliged to perform the return service.

7. If Emil Kammerer GmbH becomes behind schedule and this leads the customer to accrue a loss, the customer is entitled to demand lump-sum compensation for delay. This amounts to 0.5% for every full week of delay, however overall a maximum of 5% of the value of the part of the total delivery that cannot be used in good time because of the delay or cannot be used as per the contract. The customer is obliged in advance to provide Emil Kammerer GmbH with written evidence of damages accrued.

### IV. Passing of risk, acceptance

1. Risk passes to the customer when the deliverable has left the factory, including when partial deliveries are made or Emil Kammerer GmbH has assumed other services e.g. the shipping costs or delivery and set-up. Where an acceptance is to take place, this is decisive for the passing of risk. It must be carried out immediately on the acceptance date, or, alternatively, following the report by Emil Kammerer GmbH of the readiness for

acceptance. The customer may not refuse acceptance due to the presence of a minor defect.

2. If the despatch or acceptance is delayed or does not occur as a result of circumstances that are not attributable to Emil Kammerer GmbH, the risk passes to the customer on the day of the reporting of readiness for despatch or acceptance.
3. Partial deliveries are permitted where these are acceptable for the customer.

#### V. Retention of title

1. Emil Kammerer GmbH reserves ownership of the deliverable until all payments have been received – including for any additionally owed ancillary services – from the delivery contract.
2. Emil Kammerer GmbH is entitled to insure the deliverable at the expense of the customer against theft, damage caused by breakage, fire, or water, and other damage, insofar as the customer has not verifiably taken out this insurance himself.
3. The customer may not sell or pledge the deliverable, nor assign it by way security. On garnishment and seizure or other acts of disposal by third parties, he is to report this to Emil Kammerer GmbH immediately.
4. In the event of conduct by the customer that is in breach of the contract, in particular upon default in payment, Emil Kammerer GmbH is entitled to withdraw the deliverable following warning and the customer is obliged to surrender it.
5. An application to open insolvency proceedings entitles Emil Kammerer GmbH to withdraw from the contract and demand the immediate return of the deliverable.

#### VI. Claims for defects

For material defects and defects in title relating to the delivery, Emil Kammerer GmbH is liable, under the exclusion of further claims, as follows:

##### Material defects

1. All the parts are to be repaired or replaced free from defects at the choice of Emil Kammerer GmbH where they are found to be defective as a result of a circumstance that existed prior to the passing of risk. The ascertainment of such defects must be reported to Emil Kammerer GmbH immediately in writing. Replaced parts become the property of Emil Kammerer GmbH.
2. The customer is to provide the necessary time and opportunity on agreement with Emil Kammerer GmbH in order for all of the repairs or replacement deliveries that Emil Kammerer GmbH deems necessary to be carried out; in all other cases, Emil Kammerer GmbH is freed from liability for the resultant consequences. Only in urgent cases where operational safety is endangered or to prevent disproportionately large damage, whereby

Emil Kammerer GmbH is to be informed immediately, the customer has the right to have the defects rectified by himself or a third party and demand compensation for the necessary expenses from Emil Kammerer GmbH.

3. Where the complaint is found to be justified, Emil Kammerer GmbH bears the direct costs of repair or replacement delivery, including shipping. He also bears the costs of dismantling and assembly and the costs of any necessary provision of the required technicians and unskilled workers including transport costs, insofar as this does not place Emil Kammerer GmbH under any disproportionate burden.
4. The customer has, within the statutory regulations, a right to withdraw from the contract if Emil Kammerer GmbH – taking into account the statutory exceptional cases – allows a suitably set period of time for the repair or replacement delivery to elapse without success due to a material defect. If there is only an insignificant defect, the customer only has the right to a reduction of the contract price. The right to reduction of the contract price otherwise remains excluded.
5. No liability is assumed, particularly in the following cases:  
Unsuitable and improper use, defective assembly or commissioning by the customer or third parties, natural wear and tear, defective or negligent treatment, improper maintenance, unsuitable equipment, defective construction work, unsuitable building ground, chemical, electrochemical or electrical influences - insofar as Emil Kammerer GmbH is not responsible for these.
6. If the customer or a third party makes improper repairs, Emil Kammerer GmbH is not liable for the resulting consequences. The same applies to changes to the deliverable that are undertaken without the prior consent of Emil Kammerer GmbH.

#### VIII. Limitation

All claims of the customer – whatever the legal basis for these – become time-barred in 12 months.

#### IX. Use of software

Where software is included in the scope of delivery, the customer is granted a non-exclusive right to use the supplied software including its documentation. It is handed over for use on the deliverable suitable for this purpose.

The customer may only reproduce, process or translate the software or transform it from the object code to the source code in the legally permitted scope (§§ 69 a ff. of the UrhG [German Copyright Act]). The customer commits not to remove manufacturer information - in particular copyright information - or change it without the prior express consent of Emil Kammerer GmbH.

All other rights to the software and documentation including the copies remain with Emil Kammerer GmbH. The allocation of sub-licences is not permitted. Dissemination to third parties can only take place with the prior written consent of Emil Kammerer GmbH.

## X. Storage

If, at the customer's request, goods should be stored in the factory, Emil Kammerer GmbH is entitled to charge a storage fee amounting to 0.5% of the invoice sum from the first day in each new month, beginning one month following notification of the readiness for despatch. Both the invoicing and the payment date for our receivables remain unaffected by stockkeeping.

## XI. Non-disclosure

Confidential treatment and the confidentiality obligation apply both to Emil Kammerer GmbH and to the customer and other third parties involved. A special obligation to exercise discretion applies in relation to offers, order confirmations, technical specifications, technical drawings, technical documents in written or electronic form, and to other order-related information. These may in no way be made accessible to third parties. The customer bears all damages and costs insofar as he infringes upon this confidentiality.

## XII. Applicable law, place of jurisdiction

1. The law of the Federal Republic of Germany that applies to the legal relationships between domestic parties exclusively applies to all legal relationships between Emil Kammerer GmbH and the customer.
2. The place of jurisdiction is the court responsible at the headquarters of Emil Kammerer GmbH. However, Emil Kammerer GmbH is entitled to file a suit at the headquarters of the customer.

Bergisch Gladbach, August 2014

***Please note: The basis for the general terms and conditions (GTCs) of Emil Kammerer GmbH are the VDMA conditions for the delivery of machines for domestic business, last updated 2012***