

# General Conditions for Sale and Delivery

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Embedded Artists AB

## **General Conditions for Sale and Delivery**

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## Embedded Artists AB (“EAAB”) General Conditions for Sale and Delivery

### 1. General

1.1 These EAAB General Conditions for Sale and Delivery “EAAB General Conditions” specifies the terms and conditions under which EAAB will provide the buying part (“Buyer”) with Product.

1.2 If any of the provisions of Buyer’s Purchase Order or other documents are in addition to or in conflict with the terms and conditions herein, or are ambiguous, those additional, conflicting or ambiguous terms and conditions are expressly rejected and these terms and conditions shall govern.

1.3 In the event of a conflict among the terms and conditions herein and any other writings from EAAB, the following documents shall govern in descending order: a) Specific Purchase Agreement between EAAB and the Buyer, b) Order Confirmation, c) EAAB Quote, d) EAAB General Conditions e) other documents issued by EAAB.

1.4 The Buyer acknowledges EAAB General Conditions, at the very latest, upon ordering the Product from EAAB.

### 2. Quotations and Contracts

2.1 These EAAB General Conditions are also valid for all quotes issued by EAAB.

2.2 Any and all changes to EAAB General Conditions between the Parties, including verbal agreements, require written consent from both Parties.

2.3 Purchase Orders issued by the Buyer to EAAB are legally binding only upon EAAB’s written confirmation of said orders.

2.4 Quotes issued by EAAB are subject to change if unless having written form.

### 3. Product information material from EAAB

3.1 All particulars in the EAAB’s Product information such as, for example, capacity, price, technical performance etc. in catalogues, advertisements, pictorial material, price lists, prospectuses etc. are approximate, and are binding on EAAB only if express reference has been made to them in writing in the individual agreement between the parties.

### 4. Prices

4.1 Prices are denominated in EUR excluding VAT. The price does not include shipping costs.

4.2 All prices are exclusive of, and the Buyer is responsible for, all fees and taxes, including custom duties, importation fees, sales, use, withholding, gross revenue and like taxes, dues and charges assessed or incurred in connection with the provision of Product under the Agreement and insurance costs.

4.3 Prevailing prices for standard Product are taken from current EAAB catalogs and price lists.

### 5. Terms of Payment

5.1 All payments shall be made T/T and shall be denoted in EUR.

5.2. EAAB will invoice the Buyer upon finalization of the purchase of Product. To the extent EAAB accepts other payment than upfront payment, such payment shall be made within thirty (30) days from the date of the invoice.

5.3 If the Buyer fails to effect payment within the stipulated time, EAAB shall be entitled to charge interest after the due date at a rate of 10 % per month or part thereof.

5.4 All taxes, bank, discount, or withdrawal charges are at the expense of the Buyer.

## 6. Ownership Proviso, Private Resale, Transfer of Goods

6.1 EAAB maintains claims on ownership of the Product and will not deliver the Product until full payment of the purchase price, including any interest resulting from default as well as legal costs, has been made.

6.2 Until transfer of ownership of the Product from EAAB to the Buyer has been made, the Buyer may neither sell, nor transfer ownership of said Product to a Third Party.

## 7. Delivery

7.1 Delivery shall be made Ex Works (INCOTERMS 2000) EAAB's warehouse.

7.2 If no delivery time has been specified in a Specific Purchase Agreement or an Order Confirmation, delivery shall be made within a reasonable time from the moment that all technical and economical details of such document and the EAAB General Conditions have been fulfilled.

7.3 Upon receipt of delivery, the Buyer shall examine the Product to ensure that the Product comply with the Product information given by EAAB including permissible variations according to section 3 above.

7.4 EAAB's obligation to perform timely delivery of the Product shall be conditional on the Buyer's rightful performance according to the sales contract and the Conditions. If a late delivery is a result of an act or omission by the Buyer or due to circumstances within the Buyer's control, EAAB shall not be liable for the delay.

7.5 In case of delay for which EAAB is liable, EAAB shall compensate the Buyer for any direct loss that the Buyer suffers due to the delay, provided that the Buyer can furnish the EAAB with evidence of the loss incurred by the delay. EAAB is only liable if it has guaranteed the delivery time in a Specific Purchase Agreement or an Order Confirmation and provided that the delay has not been caused by circumstances outside of EAAB's control. Unless otherwise agreed, compensation for any shown direct loss shall be limited to 0.25 per cent of the price of the delayed part of the consignment for every week of delay. Under no circumstances shall the maximum liability of the EAAB exceed five (5) percent of the price for the delayed part of consignment.

7.6 If the maximum level of compensation for direct damages due to late delivery has been reached, the Buyer shall be entitled to cancel the contract regarding said consignment provided, however, that EAAB has failed to perform after having been given an opportunity to deliver within an additional period not shorter than ten (10) days. Such additional period of delivery has to be notified by the Buyer in writing.

7.7 The Buyer is not entitled to any other means of redress in case of delays than the ones stated in these EAAB General Conditions.

7.8 If the circumstances due to which EAAB is prevented from executing a timely delivery are within the Buyer's control, the Buyer shall not be exempted from any payments under the sales contract.

7.9 If the Buyer refrains from or is prevented from taking timely delivery, EAAB shall arrange for storing of the Product for no more than six (6) months, at the Buyer's risk and cost. Delivery shall be deemed to have taken place at the time of storing, and payment shall be effected in accordance with the sales contract as if delivery was made. Once the obligation to store the Product has ended, EAAB shall be entitled, at his discretion and at the Buyer's expense, to deliver the Product to the Buyer or to destroy the Product. The Buyer shall not be entitled to any compensation for destroyed Product etc.

## 8. Packaging

8.1 Unless otherwise specified by the Specific Purchase Agreement between EAAB and the Buyer, the Product shall be delivered in EAAB's standard packaging.

8.2 Unless otherwise agreed, packaging shall not be included in the purchase price.

## 9. Defective Product

9.1 Product that are defective in function, material or craftsmanship shall, at EAAB's sole discretion, be replaced, repaired or remedied, provided that EAAB is liable for the defect.

9.2 Upon delivery, the Buyer shall immediately examine the Product. Within eight (8) days upon delivery, the Buyer shall notify in writing any defects or deficiencies. Notification according to the aforesaid shall contain a description of the defect in sufficient detail to permit EAAB to isolate the malfunction. Unless such notification is made of defect(s) that has been or should have been detected at the Buyer's examination, the Buyer loses his right to claim remedy for the defect. Irrespective of the aforesaid, the Buyer shall under no circumstances be entitled to claim any defect unless notification is made within three (3) months of receipt of the Product.

9.3 Upon receipt of written notification regarding defects or deficiencies, EAAB shall – if and when liable – replace, repair or remedy the Product within a reasonable time.

9.4 If EAAB fails to replace, repair or remedy a defect/deficiency for which he is liable within a reasonable time, the Buyer shall notify EAAB and require performance within an additional period of time not shorter than eight (8) weeks. Should EAAB fail to perform in accordance with such notification, the Buyer shall be entitled receive a reduction of the price of the Product. Such cost or reduction shall not exceed five (5) per cent of the agreed price for the defective parts of the consignment.

9.5 If EAAB fails – within the time frames etc stated in these EAAB General Conditions – to remedy, repair or replace a defect for which EAAB is liable, and if such defect is of fundamental importance for the Buyer, then the Buyer shall be entitled to terminate the sales contract immediately for the affected consignment. In case of such termination, deliveries and payments for the affected consignment shall be returned. The Buyer shall be entitled to compensation for any direct loss that he suffers, provided that the Buyer can furnish the EAAB with evidence of the damage incurred by the defective part of the consignment. However, EAAB is not liable for any costs if the failure to perform is due to circumstances beyond EAAB's control. Under no circumstances shall the maximum liability of the EAAB exceed five (5) percent of the price for the defective part of the consignment. Debit Memos from the Buyer regarding such refurbishment are not accepted, instead EAAB will issue a credit note for such payable amount.

9.6 Minor deviations with regards to performance, material, craftsmanship or otherwise in relation to specimens or samples shall not be considered as defects.

9.7 Unless the parties have agreed on tolerances, EAAB shall be entitled to determine the tolerances he sees fit.

9.8 EAAB is not liable for qualities of the Product other than the ones expressly stated in the sales contract. EAAB is not liable for any defects caused by materials, designs or information furnished by the Buyer, or any

other circumstance within the Buyer's control. A matter of which the Buyer must be presumed to have been aware at the time of purchase may not be invoked as a defect. The Buyer is responsible for the adherence of the Product to all relevant legal demands in the country in which the Product is being marketed, including requirements applied by relevant trade associations etc. Failure to meet such requirements shall not constitute defects for which EAAB is liable. The Buyer shall compensate EAAB for all costs incurred by EAAB due to claims for compensation or similar claims, caused by failure to meet the said requirements, irrespective if the claims are made by authorities, organizations, consumers or others. In case of possible failure to meet such requirements, EAAB shall be entitled to stop delivery of the Product without any liability toward the Buyer.

9.9 EAAB shall under no account be liable for any defect, nor for the lack of aptness, fitness for a specific purpose, utility or functionality of the Product, unless specified by a Specific Purchase Agreement.

## 10. Cancellation of Delivery

10.1 Unless specifically agreed in writing, the Buyer shall not be permitted to cancel orders, notwithstanding the regulation stated in Clause 52, second paragraph, of the Swedish Sales Act.

## 11. Product (Hardware) Warranty

11.1 EAAB warrants that it has full right and title to sell or license the Products delivered to the Buyer.

11.2 Any warranty given by EAAB is unless otherwise stated valid up to six (6) months after the Buyer has received Product.

11.4 EAAB warranties does not extent to where Product defects are results of improper use, tampering, negligence, modification, customization, improper installation, improper Product testing methods, repairs made by the Buyer, or other coincidental factors.

11.5 EAAB's warranty explicitly does not apply to its sale of used hardware.

## 12. Product (Software) Warranty

12.1 EAAB makes no representation or warranties with respect to the performance, interoperability, function or fitness for a specific purpose of any computer program and software, bundled in, delivered with the Product or delivered separately and specifically disclaims any responsibility for any damages, special or consequential, connected with the use of this program or software.

## 13. Product Liability

13.1 To the extent permissible by law, EAAB disclaims any liability for Product liability claim arising out of or due to the Buyer's usage of an EAAB Product for purposes other than which it was intended.

13.2 EAAB also explicitly disclaims any other Product liability if injury or damage is a result of improper use, negligence, modification, improper installation, improper Product testing methods, repairs made by the Buyer, or other coincidental factors.

13.3 The exemption from liability also ends if EAAB manufactures a Product on the order of a Buyer without knowledge of the end Product usage or without EAAB's ability to control or monitor the Product end application.

13.4 The Buyer receives no exemption from liability if EAAB can make valid claims for liability exemption according applicable liability laws.

#### 14. Limitation of Liability

14.1 EAAB shall under no account be liable for or be obliged to indemnify the Buyer for indirect damages – such as loss of business, loss of profits or other indirect loss/damage, consequential or punitive damages – unless such damage is the result of gross negligence or intent by EAAB.

14.2. EAAB explicitly disclaims any warranty as to the merchantability, lack of aptness, functions, utility or fitness for a specific purpose of the Product sold to the Buyer.

14.3 To the extent permitted under applicable law, EAAB's entire liability for goods or services regardless of the form of action shall in no event exceed total amount paid to EAAB for the specific good or service giving rise to the claim.

#### 15. Intellectual Property Rights

15.1 The Buyer understands and hereby confirms that any and all technical proprietary knowledge, discovery, development, invention, design, process, formulae, method, database, information, drawing, code, computer program, copyright, semiconductor, circuit board layout or other topography and trademark ("Intellectual Property Rights") associated with, incorporated or used in the Product is and remains under the ownership of EAAB and its licensors.

15.2 Nothing herein or otherwise in conjunction with the sale and purchase of the Product constitutes a transfer of ownership or a license to use the Intellectual Property Rights other than for the purposes which are normal for an average non-expert consumer. The Buyer acknowledges that any further use of the Product does require EAAB's explicit approval.

15.3 The Buyer is to the extent permissible according to law prohibited to deconstruction or reverse engineering the Product or any single parts or component included or embedded in the Product.

15.4 The Buyer is only allowed to reproduce the software delivered with the Product to the extent such reproduction is necessitated for backup purposes. For avoidance of doubt reproduction of software is never allowed if the direct access to the software is limited, e.g. by means of encryption or other means which would make it necessary to reverse engineer the Product in order to gain access to the software.

15.5 EAAB Product may not be installed in life-sustaining medical, nuclear or military systems without the express written consent of EAAB.

15.6 The resale or re-export of single or system integrated EAAB Product requires EAAB's permission. Any such permission granted to Buyers from EAAB does not include transfer to Third Parties of any technical proprietary knowledge, licenses, copyrights and trademarks associated with all EAAB Product.

#### 16. Force Majeure

16.1 If due performance by either party is affected by reason of force majeure, e.g. strikes, lockouts, or other labor disputes, military conflicts, fire, explosions, as well as any defects or delays in deliveries from subcontractors caused by any of the aforementioned circumstances, that party is relieved from liability towards the other party. Each of the parties shall without delay notify the other party in writing upon becoming aware of an event of force majeure as well as the expiration thereof.

#### 17. Miscellaneous

17.1 If the Buyer should happen to fail to meet the terms from a sales contract, EAAB can refuse further delivery without danger of invalidating its legal rights and contractual obligations.

17.2 If the decree of these EAAB General Conditions is declared legally ineffective or invalid, then it is considered to have been substituted for by a provision that approaches the intended function of the now ineffective decree and takes the interests of both parties involved into consideration.

17.3 Any failure by EAAB to complain of any act or failure to act of the other party or to declare that other party in default shall not constitute a waiver by EAAB of its rights under this Agreement. No consent or waiver, express or implied, by EAAB of any breach or default of the other party in performing its obligations under this Agreement shall be deemed or construed to be a consent or waiver of any other breach or default by the other party of the same or any other obligation hereunder. EAAB's waiver of any rights, in casu or generally, under this Agreement shall only be effective if in writing and signed by EAAB.

17.4 The Buyer cannot transfer or forfeit its rights to a Third Party without the written consent of EAAB.

17.5 Any proposal for additional or different terms or any attempt by Buyer to vary in any respect any of the terms of these EAAB General Conditions, by attachment of Buyer's own terms and conditions, by over-stamping, or by any other means is hereby rejected by EAAB.

17.6 The terms, provisions, representations and warranties contained in these EAAB General Conditions shall survive the delivery and acceptance of the Products, provision of services and any payment made hereunder and shall be binding upon the successors and assignees of each party. Headings and captions herein are merely for convenience and shall not in any way affect or modify the provisions of these EAAB General Conditions.

## 18. Jurisdiction

18.1 This Agreement shall be deemed to have been construed and shall be enforced in accordance with and shall be governed by the laws of Sweden. Any dispute, controversy or claim arising out of or in conjunction with this Agreement, or the breach, termination or invalidity thereof shall be settled by the district court of Malmö, Sweden.

END OF EAAB'S GENERAL CONDITIONS FOR SALE AND DELIVERY