

**EZM EDELSTAHLZIEHEREI
MARK**

**GENERAL TERMS AND CONDITIONS
(SALES TERMS)**

Orders placed by an entrepreneur (§ 14 of the German Civil Code (*Bürgerliches Gesetzbuch*; BGB)), legal entities under public law, or a public-law special funds (hereinafter the “Client” or “Buyer”) shall be processed by us (hereinafter the “Contractor”) exclusively based on the following terms and conditions, which shall also apply to any future transactions without the need to refer to them again separately. Counter-confirmations by Client referring to its terms are hereby objected to. Any deviating, conflicting, or supplementary general terms and conditions of Client shall only become part of the contract if and as far as we have explicitly agreed to their application in writing. This requirement of consent shall apply in any case, e.g., even if we deliver to Client without reservation in spite of knowing of Client’s GTC. These terms and conditions shall be deemed accepted at the latest upon acceptance of our delivery by Client, even if Client has previously referred to its own terms. Unless any deviations arise from the following provisions, the legal relationship with Client shall be subject exclusively to the statutory provisions. If our extended reservation of title in accordance with item VIII. has not become part of the contract due to a defence clause of Buyer, the transfer of title in the goods shall in any case be subject to the condition precedent of full payment of the agreed price.

I. Conclusion of contract

- I.1. Contractor’s offers shall be subject to change and non-binding. Any orders placed by Client shall only become binding upon our order confirmation in text form. This shall also apply if any catalogues, technical documentation (e.g., any drawings, plans, computations, calculations, references to DIN standards), other product descriptions or documents – also in electronic form – in which we reserve title and copyright are provided to Client. The information contained there shall only be approximately authoritative, except where usability for the contractually intended purpose requires precise observation. They shall not be guaranteed characteristics, but rather descriptions or identifications of the delivery or service. Deviations that are customary in the trade and deviations that occur due to legal regulations or represent technical improvements, as well as the replacement of components with equivalent parts, shall be permitted as far as they do not impair the usability for the contractually intended purpose.
- I.2. Any amendments of or supplements to these terms and conditions as well as any agreements made shall only be effective if Contractor confirms them in writing. This shall also apply to any amendment of this requirement of written form.
- I.3. The Incoterms 2020 shall apply to the interpretation of the trade terms.

II. Pricing

- II.1. Unless otherwise agreed from case to case, our prices applicable at the time of conclusion of the contract shall apply. Prices are given in euros, ex works, plus statutory VAT, packaging, and insurance.
- II.2. If the wage, material, and/or production costs to be paid by us change without any fault of our part in the period from receipt of the order to manufacture of the ordered goods or provision of any other service promised by us, so that the manufacturing costs for the respective ordered product to be documented by us and to be determined in accordance with the principles of commercial law within the meaning of § 255 of the German Commercial Code (*Handelsgesetzbuch*; HGB) increase by more than 33% as compared to the time at which the order was placed, we shall have the right to adjust the agreed price for the ordered product at our reasonable discretion (§ 315 BGB).
- II.3. Packaging materials shall be charged at cost and shall not be taken back.

III. Payment terms

- III.1. Our claims shall fall due based on the statutory provisions.
- III.2. Our invoices shall be payable immediately upon receipt without deduction.
- III.3. Default in payment regarding our claims shall occur no later than 15 calendar days after receipt of the invoice without the need for a reminder or other preconditions, provided that default has not occurred earlier based on the law. If a payment target to be calculated based on the calendar has been agreed in deviation from item III. no. 1, payment default shall occur upon expiry of the payment period without any need for a reminder or other preconditions. In no case shall default under the above provisions occur before the due date of the claim. Any unpaid amounts shall bear interest at the statutory default interest rate applicable from time to time during the period of default. We reserve the right to assert further default damage. Our claim to the commercial interest after the due date (§ 353 HGB) against merchants shall not be affected.
- III.4. If a considerable risk to the compensation claim due to us becomes evident after conclusion of the contract, we may refuse performance and set a reasonable deadline for Client within which it must pay step by step against delivery or provide collateral. If Client refuses payment or provision of collateral or following the unsuccessful expiry of the deadline, we shall have the right to withdraw from the contract or to demand compensation for damages. Following delivery of the goods, we shall have the right to take back the goods following prior notice and, if necessary, to enter Client's premises for this and to take possession of the goods there if there is any considerable risk to the compensation claim that we are due. Recovery shall not be equivalent to withdrawal from the contract. Client may avert the obligation to surrender the object by providing collateral in the amount of our payment claim.
- III.5. In the case of payment default on the part of Client, we may suspend performance of any further obligations, including those arising from any other orders, after notifying Client until payment has been received.
- III.6. Offsetting against any counterclaims of Client or retention of payments due to such claims shall only be permissible as far as the counterclaims are

undisputed or legally established or arising from the same order under which the respective delivery was made.

IV. Shipment and transfer of risk

- IV.1. Shipment shall be ex works, which shall also be the place of performance for the delivery and any subsequent performance, unless otherwise stipulated. If we are also responsible for installation, the place of performance shall be the place where the installation is to take place. The goods shall be shipped to another destination (sale by delivery to a place other than the place of performance) upon Client's request and expense. Unless otherwise agreed, we shall have the right to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.
- IV.2. The risk shall pass to Client – even in the case of freight-free delivery subject to specific agreement – upon handover of the goods to the forwarding agent, carrier, or other person or institution charged with the shipment. As far as acceptance has been agreed, this shall be decisive for the transfer of risk. In any other respects, the statutory provisions of the law on contracts for work and services shall also apply accordingly where acceptance is agreed. Handover or acceptance shall be deemed equivalent if Buyer has entered default of acceptance.
- IV.3. If Client has entered default of acceptance, fails to cooperate, or if our delivery is delayed for any other reasons for which Client is at fault, we shall have the right to demand compensation for any resulting damage, including additional expenses (e.g., storage costs). We shall charge a flat-rate compensation in the amount of 0.25% of the invoice amount of the delivery items to be stored for this per completed week, starting at the delivery deadline or – in the absence of a delivery deadline – at notification that the goods are ready for dispatch. We reserve the right to claim and prove further or lower storage costs.

V. Delivery

- V.1. The delivery periods and dates for deliveries and services stated by us shall always be only approximates rather than fixed dates, except where explicitly agreed otherwise in writing. Apart from effectively agreed fixed dates, the agreed delivery times shall be subject to timely delivery to us by our suppliers.
- V.2. The time of dispatch ex works shall be decisive for compliance with the delivery times. If the goods cannot be dispatched on time for reasons that are not due to our fault, the delivery times shall be deemed met upon notification of readiness of the goods for dispatch.
- V.3. Contractor shall not be liable for impossibility of delivery or for any delays in delivery that are caused by force majeure or any other events that are not foreseeable at the time of conclusion of the contract (e.g., operational disruptions of any kind, difficulties in procurement of materials or energy, transport delays, strikes, lawful lockouts, shortages of labour, energy, or raw materials, difficulties in obtaining necessary official permits, official measures or the failure of suppliers to deliver at all, correctly, or on time) for which Contractor is not at fault. As far as such

events render the delivery or service substantially more difficult or impossible for Contractor and the obstacle is not merely temporary in duration, Contractor shall have the right to withdraw from the contract. If there are any temporary obstacles, the delivery or service deadlines shall be extended or postponed by the period of the obstacle plus a reasonable start-up period. As far as Client cannot reasonably be expected to accept the delivery or service due to such delay, it may withdraw from the contract by written declaration to Contractor made without undue delay.

- V.4. If we are in default of delivery and Client wishes to withdraw from the contract, it must set us a reasonable deadline of at least 2 weeks for performance, except if setting of such deadline is dispensable according to the law. If we are in default with a delivery or service or if a delivery or service becomes impossible for us, no matter the reason, our liability for damages shall be limited in accordance with item IV of these General Sales Terms.
- V.5. If Contractor owes any divisible services, partial services shall be permitted at a reasonable extent and may be invoiced separately by Contractor. There shall be no right of retention opposing the claim to payment of a partial service that is reasonable for Client due to part of the order not having been delivered yet.

VI. Acceptance obligation, excess or short deliveries

- VI.1. An order or call-off shall obligate Client to accept the full amount of the goods. In particular, this obligation shall apply to such cases where all or some of the goods to be delivered lead to special production. We reserve the right to making excess or short deliveries for reasons of production, as far as this is reasonable for Client. Any excess or short delivery of up to 5% of the order or call-off amount shall be deemed reasonable. Client reserves the right to prove that only a smaller excess or short delivery is reasonable in the specific case. In the case of an excess delivery, the actual delivery amount shall be remunerated, up to the reasonable delivery quantity. In the case of short delivery, Client shall pay for the actual delivery quantities.

V. Retention of title

- VII.1. We shall retain title in the goods delivered by us (goods subject to retention of title) until our current and future claims arising from the business relationship with Client, including any future claims, have been settled in full.
- VII.2. The goods must only be sold in the ordinary course of business. The right to sell shall expire at suspension of payment by Client. Client shall not have any right to pledge goods subject to retention of title or to assign them as collateral. It shall be obligated to protect our rights in credited resale of the goods subject to retention of title. Client hereby assigns all claims accruing to it against its customers from the resale to us; however, it shall remain authorised to collect the claim at its own expense until this right is revoked. We hereby accept the assignment. Upon request, Client shall inform us of the debtors of the assigned claims as well as the types and amounts

of the claims and provide us with all documents necessary for enforcement of such claims. We shall have the right to disclose the assignment of claims to the third-party debtor after giving Client appropriate advance notice.

- VII.3. If the delivery item is resold together with any other goods that do not belong to us, Client's claim against its purchasers shall be deemed assigned to us in the amount of the price agreed between us and Client.
- VII.4. If the realisable value of the collateral exceeds our claims by more than 10%, we shall release collateral of our choice at Buyer's request.
- VII.5. Client shall be obligated to insure the goods subject to retention of title against the risk of destruction, loss, or damage by fire, water, and theft for the period following the transfer of risk. It shall also be obligated to insure the risk of destruction and loss of, and damage to, the goods subject to retention of title during transport. Client shall inform us without undue delay in the case of loss or destruction of, or damage to, the goods subject to retention of title and provide us with all damage documents, specifically damage reports, relating to the goods subject to retention of title upon request, inform us of any existing insurance policies and, at its discretion, provide us with either the insurance certificate or a collateral certificate issued by the insurer for our goods subject to retention of title.
- VII.6. Pledging or transfer of title of goods subject to retention of title by way of collateral before full payment shall not be permitted. We must be informed without undue delay in cases of seizure, confiscation, or any other measures taken by third parties.
- VII.7. Processing or transformation of goods subject to retention of title shall always be performed by Client on our behalf. In this context, we shall be deemed the manufacturer in accordance with § 950 BGB. In the case of processing, combination, or mixing with any other goods that do not belong to us by Client, we shall be due shared title in the new item at the ratio of the value invoiced for the processed goods subject to retention of title to the value invoiced for the other processed goods. The provisions for goods subject to retention of title in accordance with item VII nos. 1-6 shall apply accordingly to any items created by processing, combining, or mixing in which we acquire full or shared title apart from this.

VIII. Obligations to examine and give notice of defects

- VIII.1. a. If the provisions of § 377 or §§ 381, 377 HGB apply to the contract, the following is agreed regarding the inspection and complaint obligations specified there: The delivered items shall be carefully inspected without undue delay following delivery to Client or to the third party designated by it. The delivery items shall be deemed approved by Buyer regarding any obvious defects or other defects that would have been recognisable in the course of careful examination without undue delay provided that the seller does not receive any written notice of defect within seven working days of delivery. Regarding any other defects, the delivery items shall be deemed approved by Buyer if no notice of defect is received by the seller within seven working days after the time at which the defect became apparent; however, if the defect was already apparent at an earlier time during normal use, that earlier time shall be decisive for commencement of the period for giving notice of defect. The prerequisites and consequences of a delayed notice of defects shall be subject to the statutory provisions (§ 377 or §§

377, 381 HGB) in any other respects.

b. At the seller's request, any rejected delivery item shall be returned to the seller carriage paid. The seller shall reimburse the costs of the most favourable shipping route in the case of a justified complaint; this shall not apply as far as the costs increase because the delivery item is located at a place other than the place of intended use.

VIII.2. If Client fails to give notice of a defect in time in accordance with the provisions of §§ 377, 381 HGB in the context of a mutual commercial transaction, this shall also exclude Client's claims under tort arising or accruing as a result of the defect. This shall not apply if the claims are based on at least grossly negligent conduct on the part of Contractor or its vicarious agents. Furthermore, the exclusion shall not apply to any claims based on the Product Liability Act (*Produkthaftungsgesetz*) or on injury to life, limb, health, or freedom of a person.

IX. Warranty, liability, and limitation

IX.1. Our warranty for defects of material shall be limited to supplementary performance (subsequent delivery or rectification), withdrawal, or reduction (reduction of the price) in accordance with the statutory provisions.

If the delivered item is defective, we may first choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (subsequent delivery). Our right to refuse subsequent performance according to the statutory conditions shall not be affected by this.

Client shall grant us the time and opportunity required for any subsequent performance owed, in particular to hand over the goods subject to complaint for the purpose of inspection. In the case of a replacement delivery, Client shall return the defective item to us in accordance with the statutory provisions. Subsequent performance shall not include removal of the defective item or re-installation if we were not originally obligated to install it.

We shall bear or reimburse any expenses necessary for inspection and subsequent performance, in particular transport, travel, labour, and material costs and, if applicable, removal and installation costs, in accordance with the statutory provisions if there actually is a defect. Otherwise, we may demand reimbursement of the costs incurred as a result of the unjustified request to remedy the defect (in particular inspection and transport costs) from Client, unless the lack of a defect was not evident for Client.

In urgent cases, e.g., if operational safety is endangered or to prevent disproportionate damage, Client shall have the right to remedy the defect directly and to demand compensation for the expenses objectively necessary for this from us. We must be informed of any such direct performance without undue delay, in advance if possible. There shall be no right to direct performance if we would be entitled to refuse a corresponding subsequent performance based on the statutory provisions.

We shall only pay compensation for damage caused by material defects for which we are at fault within the scope of contractual liability under the statutory conditions in the following cases:

a. The claim for damages against us shall be based on a defect of material and is targeted at compensation for property damage to legal assets other than the

purchased item. Other pecuniary loss caused by property damage to any other legal assets than the purchased item due to a defect of material (pecuniary consequential losses of property damage) shall be deemed equivalent to property damage. The amount of our liability shall be limited in accordance with the provisions of item IX no. 4.

b. We are at fault for a defect of material due to intent, malice, or gross negligence. In the case of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g., diligence in own affairs; insignificant breach of obligations), for any damage arising from the breach of an essential contractual obligation (obligation the compliance with which makes proper performance of the contract possible in the first place and compliance with which the contractual partner regularly relies on and may rely on); in this case, however, our liability shall be limited to compensation for the foreseeable, typical damage.

c. We have given a special contractual representation or guarantee that goes beyond an agreement on quality regarding freedom of the goods from the defect of material causing the damage.

d. The claim for damages against us is based on injury to life, body, health, or freedom of a person.

The above provisions shall not limit our non-contractual liability, in particular under the provisions on tort and the Product Liability Act.

- IX.2. a. The limitation period for the claims referred to in § 437 BGB that are based on defect of materials shall be one year from delivery, subject to the following provisions. As far as acceptance has been agreed, the limitation period shall commence upon acceptance. If the item delivered or manufactured by us is used for a building in accordance with its customary use and if that item has caused its defectiveness, the limitation period for that warranty claim shall be 5 years. The statutory limitation periods shall apply as far as warranty claims directed against us involve damages for any injury to life, health, body, or freedom of a person. Furthermore, the statutory limitation periods shall apply if we are liable for the defect due to intent or gross negligence. Finally, the statutory limitation periods shall also apply if we have assumed a contractual guarantee for freedom from defects regarding the specific defect.
- b. The limitation period for the claims referred to in § 437 BGB based on defects of title shall be one year unless the defect comprises a third party's right in rem based on which surrender of the object of sale can be demanded or another right registered in the land register. The statutory limitation periods (§ 438 BGB) shall apply if we have maliciously concealed the defect or if we are liable for the defect due to intent or gross negligence. Further, the statutory limitation periods shall also apply if we have assumed a contractual guarantee for freedom from defects regarding the specific defect.
- c. The limitation period for any other claims for damages against us that are not based on liability for defects of title or material shall be 18 months. This shall not apply:
- if any directed against us are based on injury to life, health, body, or freedom of a person,

- if our liability is based on an intentional or grossly negligent breach of obligations for which we are at fault
 - or if any claims are asserted against us under the Product Liability Act. The statutory limitation periods shall apply in such cases.
- IX.3. If any deliveries are replaced or repaired by us under warranty, this shall not extend the limitation period for warranty claims even for the repaired or subsequently delivered parts. The statutory provisions on suspension and recommencement of the limitation period shall not be affected by this.
- IX.4. Our liability for consequential damage caused by a defect of material – no matter of the legal grounds – shall be limited to an amount of EUR 1,000,000.00 per breach of obligations, provided that we can prove a liability insurance policy with an insured total of at least EUR 1,000,000.00 for the claim. The same shall apply to our liability for damages due to a culpable breach of secondary obligations. If several kinds of damage occur within the scope of a purchase contract or other transaction based on the same cause, e.g., delivery of several units subject to the same defect within a purchase contract, this shall be deemed a single breach. A higher insured total may be taken out at Client's expense upon Client's written request. In this case, the maximum liability limit shall increase accordingly. This limitation of liability shall not apply if our liability is based on intent, malice, or gross negligence. It shall also not apply
- to any claims arising from the Product Liability Act,
 - to any contractual claims due to such defects for the absence of which we have contractually assumed a guarantee or to any claims for damages directed against us based on injury to life, limb, health, or freedom of a person. In this respect, we shall be liable without limitation in accordance with the statutory provisions.
- IX.5. Our warranty and liability – no matter the legal grounds – shall be excluded for any defects based on defects in the plans, drawings, materials, or products provided by Client, except if the defectiveness of the plans, drawings, materials, or products provided by Client was not recognised by us due to gross negligence. If Client performed an initial sample inspection without reporting any defects to us without undue delay, our liability – no matter the legal grounds – shall be excluded for such defects that could have been detected by diligent initial sample inspection. These limitations of liability shall not apply if our liability is based on intent, malice, or gross negligence. It shall also not apply
- to any claims arising from the Product Liability Act,
 - to any contractual claims due to such defects for the absence of which we have contractually assumed a guarantee or to any claims for damages directed against us based on injury to life, limb, health, or freedom of a person. The statutory provisions shall remain in force in this respect.
- IX.6. The above provisions in item IX nos. 1 to 5 shall not apply to the recourse of Client against Contractor in accordance with §§ 478, 479 BGB or §§ 651, 478, 479 BGB (recourse due to a defect

of the goods that has occurred at a consumer's site). The statutory provisions shall remain in force in this respect.

X. Parts and machines sent in for processing

- X.1. The following provisions shall apply to contracts with the object of processing, overhaul, or repair of parts, machines, or any other items provided to us. In the absence of any special provisions below, the other provisions of these terms and conditions shall apply to such contracts.
- X.2. Parts or machines sent to us for processing must be delivered free to Contractor's works, in good packaging and accompanied by a delivery note with our order details.
- X.3. The material of the parts sent to us must be disclosed to us at the latest upon delivery; it must ensure best possible processing. If these conditions are not met, Contractor may charge the costs for any additional work incurred as a result as well as any costs incurred for tools prematurely worn or damaged as a result of this or withdraw from the contract, in which case Client shall pay the contract price less saved expenses plus the above additional costs.
- X.4. Our warranty for defects of material shall be limited to supplementary performance (subsequent delivery or rectification), withdrawal, or reduction (reduction of the price) in accordance with the statutory provisions. We shall only pay compensation for damage caused by material defects for which we are at fault within the scope of contractual liability under the statutory conditions in the following cases:
- a. The claim for damages directed against us is based on a defect of material and has the object of compensation of property damage caused by the defect of material or any other pecuniary loss resulting from property damage caused by a defect of material. The amount of our liability shall be limited in accordance with the provisions of item IX no. 5.
 - b. We are at fault for a defect of material due to intent, malice, or gross negligence. In the case of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g., diligence in own affairs; insignificant breach of obligations), for any damage arising from the breach of an essential contractual obligation (obligation the compliance with which makes proper performance of the contract possible in the first place and compliance with which the contractual partner regularly relies on and may rely on); in this case, however, our liability shall be limited to compensation for the foreseeable, typical damage.
 - c. We have given a special contractual representation or guarantee that goes beyond an agreement on quality regarding freedom of the work from the defect of material causing the damage.
 - d. The claim for damages against us is based on injury to life, body, health, or freedom of a person.
- The above provisions shall not limit our non-contractual liability, in particular under the provisions on tort and the Product Liability Act.
- X.5. As far as we are liable for the damage or destruction of sent-in parts or machines in accordance with the statutory provisions, this liability shall be limited to the amount of

EUR 1,000,000.00 per breach of obligations, provided that we can prove a liability insurance policy with an insured total of at least EUR 1,000,000.00 for the claim. If several kinds of damage occur within the scope of a contract based on the same cause, e.g., processing of several pieces sent in that is faulty in the same way, this shall be deemed a single breach. A higher insured total may be taken out at Client's expense upon Client's written request. In this case, the maximum liability limit shall increase accordingly. This limitation of liability shall not apply if our liability is based on intent or gross negligence or if we have assumed a guarantee for freedom from defects regarding a defect that caused damage. Furthermore, this limitation of liability shall not apply if a claim is raised against us for damage based on injury to life, limb, health, or freedom of a person.

- X.6. a. Subject to the following provisions, the limitation period for the warranty claims for defect of materials and title in accordance with § 634 BGB shall be one year if the work owed by us comprises the manufacture, maintenance, or modification of an object that is not a building or provision of planning or monitoring services not related to any buildings. The statutory limitation periods shall apply as far as warranty claims directed against us involve damages for any injury to life, health, body, or freedom of a person. The statutory limitation periods shall further apply if we have maliciously concealed the defect or if we are liable for the defect due to intent or gross negligence. Finally, the statutory limitation periods shall also apply if we have assumed a contractual guarantee for freedom from defects regarding the specific defect.
- b. The limitation period for any other claims for damages against us that are not based on liability for defects of title or material shall be 18 months, no matter the legal grounds. This shall not apply
- if any directed against us are based on injury to life, health, body, or freedom of a person,
 - if our liability is based on an intentional or grossly negligent breach of obligations for which we are at fault
 - or if any claims are asserted against us under the Product Liability Act.
- The statutory limitation periods shall apply in such cases.
- X.7. The limitation period for warranty claims shall not be extended if any work is improved by us, even regarding the improved parts. The statutory provisions on suspension and recommencement of the limitation period shall not be affected by this.
- X.8. Our services shall be deemed accepted at the latest when the item processed by us is sold by Client to a third party or made available for use; the item processed by us is processed, mixed, or combined with other items with Client's approval; or the item processed by us is used beyond a trial period either by Client or by third parties with Client's approval.

XI. Place of performance, place of jurisdiction, and applicable law

- XI.1. The place of performance for the contractual obligations of both contracting parties shall be our registered office (Wetter).
- XI.2. If Client is a merchant within the meaning of the German Commercial Code, a legal entity under public law, or a public-law special funds, the exclusive – also international – place of jurisdiction for any disputes arising directly or indirectly from the contractual relationship shall be our registered office in Wetter. The same shall apply if Buyer is an entrepreneur within the meaning of § 14 BGB. However, we shall also have the right to bring an action at the place of performance of the delivery obligation in accordance with these terms and conditions or an overriding individual agreement, or at the general place of jurisdiction of Buyer in any case. Overriding statutory provisions, in particular on exclusive competences, shall not be affected by this.
- XI.3. Any claims in connection with execution of this contractual relationship shall be subject to German law to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

XII Severability

If any provision of these terms and conditions is or becomes invalid, this shall not affect the validity of the remaining provisions. In this case, a provision that comes as close as possible to the objective pursued by the invalid provision shall apply.