



General Terms and Conditions of Purchase (GTC)

1 General Provisions

- 1.1 Our (Ezm GmbH, registered in the Commercial Register of the Local Court of Hagen under HRB 13554) General Terms and Conditions of Purchase ("GTC") apply to all business relationships with our business partners and suppliers ("Seller"). The GTC only apply if the Seller is an entrepreneur (*Unternehmer*) (Section 14 German Civil Code (BGB)), a legal entity under public law or a special fund under public law.
- 1.2 The GTC apply in particular to contracts for the sale and/or delivery of movable goods ("Goods"), irrespective of whether the Seller manufactures the Goods itself or purchases them from suppliers (Sections 433, 650 German Civil Code (BGB)). Unless otherwise agreed, the GTC shall apply in the version valid at the time of our order or in any case in the version last communicated to the Seller in text form as a framework agreement also for similar future contracts, without us having to refer to them again in each individual case.
- 1.3 These GTC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Seller shall only become part of the contract to the extent that we have expressly agreed to their validity in writing. This consent requirement applies in any case, for example also when the Seller refers to its general terms and conditions in the order confirmation and we do not expressly object to this.
- 1.4 Individual agreements (e.g. framework supply contracts, quality assurance agreements) and information in our order take precedence over the GTC. In case of doubt, trade clauses shall be interpreted in accordance with the Incoterms® published by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.
- 1.5 Legally relevant declarations and notifications by the Seller in relation to the contract (e.g. setting of deadlines, reminder, withdrawal) must be made in writing. Writing within the meaning of these GTC includes written form and text form (e.g. letter, e-mail, fax). Statutory form requirements and further evidence, particularly in case of doubts about the legitimacy of the person making the declaration, remain unaffected.
- 1.6 These GTC are available in German and English. In the event of discrepancies or contradictions between the different language versions, the German language version shall be exclusively decisive and binding.

- 1.7 Where a German term has been inserted in quotation marks and/or italics, such term alone (and not the English term to which it relates) shall be authoritative for the interpretation of the respective provision

2 Conclusion of Contract

- 2.1 Our order shall be deemed binding at the earliest upon written submission or confirmation. The Seller must inform us of obvious errors (e.g. typing and calculation errors) and incompleteness of the order including the order documents for the purpose of correction or completion before acceptance; otherwise the contract shall be deemed not to have been concluded. Orders placed orally or by telephone require our subsequent written confirmation to be effective.
- 2.2 Order confirmations that deviate in content from the orders are not binding unless we subsequently confirm them in writing.
- 2.3 The Seller is obliged to confirm our order in writing within a period of two weeks or to execute it unconditionally, in particular by dispatching the Goods (acceptance). A late acceptance shall be deemed a new offer and requires acceptance by us.
- 2.4 Subsequent amendments or additions to the contract shall only be valid if they have been agreed in writing between the Seller and us. The Seller shall take into account any subsequent requests for changes by us. Any resulting necessary adjustments to deadlines or prices must be communicated to us in advance without delay.

3 Delivery Periods and Time of Performance

- 3.1 The agreed delivery periods and delivery dates are binding. If the delivery time is not specified in the order and has not been otherwise agreed, it shall be 8 weeks from the conclusion of the contract. In the event that delays are to be expected, the Seller must inform us immediately, stating the reasons and the presumed duration thereof.
- 3.2 If the Seller does not perform or does not perform within the agreed delivery time or is in default, our rights – in particular to withdrawal and damages – shall be determined in accordance with the statutory provisions. The provisions in Section 3.3 remain unaffected.
- 3.3 In the event of delivery delays, we are entitled – after prior written warning to the Seller and in addition to further statutory claims – to demand a contractual penalty of 0.5% per commenced week of delivery delay, up to a maximum of 5% of the respective net order value. Any contractual penalty paid shall be offset against any further claim for damages arising from default. We reserve the right to prove that a higher damage has occurred. The Seller reserves the right to prove that no damage or only substantially lower damage has occurred.
- 3.4 Deliveries made prematurely without our consent may be rejected. Premature acceptance does not affect any payment periods linked to the original delivery dates.

4 Performance and Prohibition of Assignment

- 4.1 Without our express written consent, the Seller may not transfer the performance of the contract in whole or in part to third parties (*Abtretungsverbot*). If consent is granted, the supplier shall nevertheless remain fully responsible for the performance of the contract. The Seller bears the procurement risk for its performance unless otherwise agreed in individual cases.
- 4.2 Claims directed against us may only be assigned with our written consent. For assignments made pursuant to an extended retention of title (*Verlängerter Eigentumsvorbehalt*), our approval shall be deemed granted on the condition that we reserve all rights against the assignee that we would have against the Seller itself without the assignment.

5 Shipping, Transfer of Risk, Dispatch Notifications and Packaging

- 5.1 The Seller is obliged to deliver the Goods to the place specified in the order at its own risk and expense, DDP Incoterms 2020. If the place of destination is not specified and nothing else has been agreed, delivery shall be made to our registered office "Auf der Bleiche 26, 58300 Wetter". The respective place of destination is also the place of performance for the delivery and any subsequent performance (debt to be performed at the creditor's domicile).
- 5.2 The Seller is obliged to state the respective order numbers on all shipping documents and delivery notes. A delivery note and, in the case of packaged Goods, a packing slip stating the date (issue and dispatch), content of the delivery (article number and quantity) and our order reference (date and number) must be enclosed with the delivery. If the delivery note/packing slip is missing or incomplete, we shall not be responsible for any resulting delays in processing and payment. Dispatch notifications must be submitted to us on the day of dispatch in sufficient numbers.
- 5.3 We only pay for packaging material if separate remuneration has been agreed in writing. If packaging is charged separately, we may reclaim at least 2/3 of the amount charged upon return. Returns shall be made carriage paid to the sender.

6 Prices – Terms of Payment – Discount

- 6.1 The prices stated in our order are binding fixed prices unless expressly agreed otherwise. All prices are inclusive of statutory value added tax unless this is shown separately. Unless otherwise agreed in individual cases, the price includes all services and ancillary services of the customer (e.g. assembly, installation) as well as all incidental costs (e.g. proper packaging, transport costs, including any transport and liability insurance).
- 6.2 The Seller has a right of set-off or retention only in respect of counterclaims that have been finally determined by a court or are undisputed.
- 6.3 The agreed price is due for payment within 90 calendar days after complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. If we make payment within 30 calendar days, the Seller grants us 2% discount on the net amount of the invoice (*Skonto*). In the case of bank transfer, payment is made on time if our transfer order is received by our bank before the expiry of the payment period; we are not responsible for delays caused by the banks involved in the payment process.
- 6.4 Deliveries before the agreed dates do not lead to an advance of payment periods.

- 6.5 We do not owe interest on maturity (*Fälligkeitszinsen*). The statutory provisions apply to default in payment.
- 6.6 Rights of set-off and retention as well as the defense of non-performance of the contract are available to us to the extent provided by law. In particular, we are entitled to withhold due payments as long as we still have claims against the Seller arising from incomplete or defective performance. The Seller has a right of set-off or retention only in respect of counterclaims that have been finally determined by a court or are undisputed.
- 7 **Confidentiality and Retention of Title**
- 7.1 We reserve property rights and copyrights in illustrations, plans, drawings, calculations, execution instructions, product descriptions and other documents. Such documents are to be used exclusively for the contractual performance and must be returned to us after completion of the contract. The documents must be kept secret from third parties, even after termination of the contract. The confidentiality obligation only expires when and to the extent that the knowledge contained in the documents provided has become generally known. Special confidentiality agreements and statutory provisions on the protection of secrets remain unaffected.
- 7.2 The above provision applies accordingly to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items that we provide to the Seller for manufacturing purposes. Such items – as long as they are not being processed – must be stored separately at the Seller's expense and insured to a reasonable extent against destruction and loss.
- 7.3 Any processing, mixing or combining (further processing) of items provided by the Seller is carried out for us. The same applies to further processing of the delivered Goods by us, so that we are deemed to be the manufacturer and acquire ownership of the product at the latest upon further processing in accordance with the statutory provisions.
- 7.4 The transfer of ownership of the Goods to us must be unconditional and irrespective of payment of the price. However, if in individual cases we accept the Seller's offer of transfer of ownership conditional upon payment of the purchase price, the Seller's retention of title expires at the latest upon payment of the purchase price for the delivered Goods. In the ordinary course of business, we remain authorized to resell the Goods even before payment of the purchase price with advance assignment of the resulting claim (alternatively, the simple retention of title extended to resale shall apply). All other forms of retention of title are therefore excluded, in particular the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.
- 8 **Liability for Defects and Supplier Recourse**
- 8.1 For our rights in the event of material defects and defects of title in the Goods (including incorrect and short delivery as well as improper assembly/installation or defective instructions) and in the event of other breaches of duty by the Seller, the statutory provisions and, exclusively in our favor, the following supplements and clarifications shall apply.
- 8.2 In accordance with the statutory provisions, the Seller is liable in particular for ensuring that the Goods have the agreed quality at the time of transfer of risk to us. In any case, those product descriptions which – in particular by designation or reference in our order – are the subject matter of the respective contract or have been incorporated into the contract in the same way as these GTC shall be deemed to constitute an agreement on quality. It makes no difference whether the product description originates from us, from the Seller or from the manufacturer. In particular, the Seller warrants that its delivery and performance comply with the recognized rules of technology, the statutory safety and other regulations, the agreed technical, chemical and physical data, generally recognized standards, in particular DIN, ISO, VDI, VDE, etc., unless higher requirements arise from the state of the art, the communicated place of use or purpose of use or from our other specifications.
- 8.3 In the case of goods with digital elements or other digital content, the Seller owes the provision and updating of the digital content at least to the extent that this results from a quality agreement pursuant to Section 8.2 or other product descriptions of the manufacturer or on its behalf, in particular on the internet, in advertising or on the product label.
- 8.4 We are not obliged to examine the Goods or make special inquiries about possible defects at the time of conclusion of the contract. Partially deviating from Section 442 (1) sentence 2 German Civil Code (BGB), our claims for defects are therefore available to us without restriction even if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence (*grobe Fahrlässigkeit*).
- 8.5 The statutory provisions (Sections 377, 381 German Commercial Code (HGB)) apply to the commercial duty to inspect and give notice of defects with the following provision: Our duty to inspect is limited to defects which are openly apparent during our incoming Goods inspection by external examination including the delivery documents (e.g. transport damage, incorrect and short delivery) or which are recognizable during our quality control by random sampling. If acceptance has been agreed, there is no duty to inspect. Otherwise, it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our duty to give notice of defects discovered later remains unaffected. Notwithstanding our duty to inspect, our complaint (notice of defects) (*Mängelanzeige*) shall in any case be deemed to be immediate and timely if it is sent within seven working days of discovery or, in the case of obvious defects, of delivery.
- 8.6 Subsequent performance also includes the removal of the defective Goods and reinstallation, provided that the Goods were installed in or attached to another item in accordance with their nature and intended use before the defect became apparent; our statutory claim for reimbursement of corresponding expenses (removal and installation costs) (*Aus- und Einbaukosten*) remains unaffected. The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs as well as any removal and installation costs, shall be borne by the Seller even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request for remedy of defects remains unaffected; however, in this respect we are only liable if we recognized or failed to recognize due to gross negligence that there was no defect.
- 8.7 Without prejudice to our statutory rights and the provisions in Section 8.6, the following shall apply: If the Seller fails to fulfill its obligation to provide subsequent performance – at our choice by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery) – within a reasonable period set by us, we may remedy the defect ourselves and demand reimbursement from the Seller for the expenses required for this purpose or a corresponding advance payment. If subsequent performance by the Seller has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline is required; we will inform the Seller of such circumstances immediately, if possible, in advance.
- 8.8 Furthermore, in the event of a material defect or defect of title, we are entitled to reduce the purchase price or withdraw from the contract in accordance with the statutory provisions. In addition, we are entitled to compensation for damages and expenses in accordance with the statutory provisions (*Schadens- und Aufwendungsersatz*).
- 8.9 Our legally determined claims for expenses and recourse within a supply chain (supplier recourse pursuant to Sections 478, 445a, 445b or Sections 445c, 327 (5), 327u German Civil Code (BGB)) are available to us without restriction in addition to claims for defects. In particular, we are entitled to demand from the Seller exactly the type of subsequent performance (rectification or replacement delivery) that we owe to our customer in the individual case; in the case of Goods with digital elements or other digital content, this also applies with regard to the provision of necessary updates. Our statutory right to choose (Section 439 (1) German Civil Code (BGB)) is not restricted by this.
- 8.10 Before we acknowledge or fulfill a claim for defects asserted by our customer (including reimbursement of expenses pursuant to Sections 445a (1), 439 (2), (3), (6) sentence 2, 475 (4) German Civil Code (BGB)), we will notify the Seller and request a written statement with a brief presentation of the facts. If a substantiated statement is not made within a reasonable period and no amicable solution is reached, the claim for defects actually granted by us shall be deemed to be owed to our customer. In this case, the burden of proof lies with the Seller.
- 8.11 Our claims from supplier recourse also apply if the defective Goods have been combined with another product by us, our customer or a third party, e.g. by installation, attachment or fitting, or have been further processed in any other way.
- 9 **Product Liability**
- 9.1 If the Seller is responsible for product damage, it must indemnify us against claims by third parties to the extent that the cause is attributable to its sphere of control and organization and it is itself liable in the external relationship.
- 9.2 Within the scope of its indemnification obligation, the Seller must reimburse expenses pursuant to Sections 683, 670 German Civil Code (BGB) arising from or in connection with claims by third parties, including recall actions carried out by us. We will inform the Seller about the content and scope of recall measures, insofar as possible and reasonable, and give them the opportunity to comment. Further statutory claims remain unaffected.
- 9.3 The Supplier must take out and maintain product liability insurance with a lump-sum coverage of at least EUR 10 million per personal injury or property damage.

10 Statute of Limitations

- 10.1 The mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions, unless otherwise stipulated below.
- 10.2 Notwithstanding Section 438 (1) No. 3 German Civil Code (BGB), the general limitation period for claims for defects is 3 years from the transfer of risk. If acceptance has been agreed, the limitation period begins with acceptance. The 3-year limitation period also applies accordingly to claims arising from defects of title, whereby the statutory limitation period for third-party claims for surrender in rem (Section 438 (1) No. 1 BGB) remains unaffected; claims arising from defects of title shall furthermore not become statute-barred in any case as long as the third party can still assert the right against us – in particular due to lack of limitation.
- 10.3 The limitation periods of sales law including the above extension apply – to the statutory extent – to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (Sections 195, 199 German Civil Code (BGB)) shall apply, unless the application of the limitation periods of sales law leads to a longer limitation period in the individual case.

11 Place of Performance, Place of Jurisdiction, Applicable Law

- 11.1 The exclusive place of jurisdiction for all disputes arising from this agreement is our registered office (Wetter). However, we are also entitled to choose the court responsible for the Seller's registered office or competent branch. All disputes in connection with this contract shall be governed exclusively by German law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 11.2 The place of performance for the service to be provided by the Supplier is the place of delivery specified by us. Otherwise, the place of performance is our registered office (Wetter).