



EZM EDELSTAHLZIEHEREI MARK Plant Wetter

EZM Edelstahlzieherei Mark, P.O. Box 4163, 58294 Wetter

General Terms and Conditions (of purchase)

Orders shall take place exclusively on the basis of the following conditions of purchase, which shall be applicable to all future transactions, without express reference to said conditions being required. Counter-confirmations by the supplier referring to its conditions shall be hereby opposed. **Our general** conditions of purchase shall be considered as accepted upon execution of the order at the latest, even if the supplier should refer to its conditions. General terms and conditions of the supplier shall require our explicit written consent to become valid; we shall accept regulations with regard to simple reservation of title. The effectiveness of other conditions shall not be able to be derived from the acceptance of the ordered goods or services. Unless otherwise provided for in the conditions set forth in the following, the legal relationship to the supplier shall be governed by the provisions of applicable law.

I. Conclusion of contract

Only orders placed in text form shall be binding. Orally placed orders or such placed via telephone shall require our subsequent confirmation in written or text form to become effective. Order confirmations deviating in content from the orders, shall not be binding unless confirmed by us. This confirmation shall require the text form to become effective. Subsequent changes and additions to the contract agreed between the parties shall require the text form to become effective. The supplier shall accept subsequent change requests. Any schedule or price adjustments becoming necessary as a result shall be immediately communicated to us in advance.

II. Prices

The prices stated in our order are fixed prices unless explicitly agreed otherwise. Prices are quoted carriage paid to the specified delivery location. The statutory valued added tax shall be listed separately in the calculation of the goods.

III. Payment

Payments shall always be made with reservation to auditing, even if this is not mentioned in each individual case. For the refund of any excess payments, the parties shall hereby agree a contractual reclaim right to payments made, which the supplier shall be obliged to return. The supplier shall only be entitled to a set-off right or a right of retention if it has an undisputed or legally valid claim against us.

Unless otherwise agreed, payment shall take place at our discretion within 10 workdays with 2 % cash discount or within 60 days net. The time limit for payment shall begin with the acceptance of the delivery/services due and after receipt of a proper supplier's invoice. Deliveries before the agreed due dates shall not represent an advancement of the payment periods.

Payment shall take place at our discretion by bank transfer in discountable bills of exchange or own acceptances.

The assignment of claims against us shall only be permissible with our written consent.

IV. Delivery periods

The agreed delivery periods and dates are binding. If delays are anticipated, the supplier must inform us immediately stating the reasons and the expected duration. This information does not represent a postponement of the date of delivery.

If goods are not delivered on time, a contractual penalty amounting to 0.2 % of the order value shall be levied for each full day of delay, not however exceeding 9 % of the total order volume.

The contractual penalty shall be set off against a possible compensation claim for delay. The reservation of the assertion of the contractual penalty can also take place after acceptance of the goods until payment of same.

Premature deliveries made without our consent may be rejected. Acceptance despite prematurity does not affect the terms of payment associated with the original date of delivery.

V. Non-disclosure

The supplier shall be obliged to treat all technical and business details becoming known in conjunction with the execution of the order as business secrets and shall only disclose them or make them accessible to third parties with explicit written consent. In the event that services are subcontracted to third parties with permission, the supplier shall be obliged to also commit said third party to non-disclosure.

For each case of culpable violation by the supplier of the prohibition of passing on to third parties or otherwise using without permission business secrets, in particular any samples, drawings and models provided, a contractual penalty amounting to 20,000 € shall be levied, shall be set off against a possible compensation claim.

VI. Performance of the contract, assignment prohibition

The supplier may not transfer the performance of this contract either in whole or in part to third parties without our express written consent. Even if our permission is granted, the supplier shall remain fully responsible for the fulfilment of the contract.

Claims directed against us may only be assigned with our written consent. We shall agree to assignments made as a result of extended retention of title subject to the proviso that we shall reserve all rights against the assignee to which we would be entitled against the supplier if no assignment had been made.

VII. Dispatch and transfer of risk

The supplier shall be obliged to deliver the goods at its own risk and expense to the receiving location stated by us.

In case of carriage by means of vehicles in consolidated transport or freight traffic, delivery shall take place at no extra cost to us. We reject the payment of cartage costs.

We have taken out an internationally valid transport insurance. Deliveries shall therefore take place without insurance. We are a prohibitory customer in the sense of the freight forwarders' insurance (SLVS). Premiums for transport insurances may not be invoiced. Any invoiced amounts shall be borne by the supplier.

VIII. Dispatch notes

An appropriate number of dispatch notes shall be submitted to us on the day of dispatch. Otherwise you must expect late regulation. Bills of delivery, or in the case of packaged goods, packing slips bearing our order number amongst other details, shall be enclosed in the deliveries of goods.

IX. Packaging

Packaging shall only be paid if separate remuneration has been expressly agreed upon. If packaging is invoiced, we can request at least 2/3 of the calculated amount upon return. Return shall take place carriage paid to the sender station. Deposits paid for loaned packaging shall not be listed as part of the invoice, but must be charged separately.

X. Technical acceptance

We shall be entitled to have the ordered goods inspected by our representative on the supplier's premises. Acceptance shall not however release the supplier from its warranty. If materials with test certificates are delivered, we shall require said certificates by the time the goods arrive at our plant. The relevant acceptance costs shall be borne by the supplier

XI. Warranty

The supplier shall in particular be responsible for the supplied goods or services conforming with state-of-the-art technology, the statutory safety-relevant and other regulations, the agreed technical, chemical and physical data and any other agreed characteristics properties resulting from other information of the supplier or one of the various manufacturers of the supplier. Generally acknowledged standards, in particular DIN, ISO, VDI, VDE etc. shall be adhered to, unless higher requirements result from state-of-the-art technology, the communicated place of use or purpose or from other specifications stated by us. A further statutory warranty of the supplier shall remain unaffected.

We shall claim obvious defects within 14 days after delivery, latent defects within 14 days after detection. Proof of the timely communication of the claim for defects shall suffice to comply with the notice period.

If a defective delivery of the supplier originates from a defective service of a subcontractor or sub-supplier, the supplier shall herewith assign to us any corresponding warranty claims and tortious claims for damages on the ground of said defect. The assignment shall be made to secure our warranty claims. Fulfilment of warranty claims filed by us against the supplier shall not have any reference to said security-based assignment. The supplier shall provide us with the best possible support in the receipt and implementation of said claims, shall provide any information and documents required for the assertion of said claims and shall indemnify us for all costs incurred in conjunction with said assertion of claims. Until disclosure of the assignment, the supplier shall remain authorised and obliged by us to assert claims against the sub-suppliers and subcontractors involved in its own name and at its own expense. After satisfaction of our warranty claims against the supplier, we shall re-assign its warranty claims against the sub-supplier or subcontractor. If the provision of excess security of our warranty claims amounting to more than 20 % should be established, we undertake to re-assign to the supplier the part of its warranty claims exceeding 120 % of our receivables upon request.

The term of limitation of warranty claims depends on the provisions of the German Civil Code (BGB); in the case of remedial measures or re-delivery, the warranty period begins again upon the elimination of the defect or re-delivery of the repaired or new part; for work contracts upon acceptance of the improved or re-performed work, and for purchase contracts upon the physical handing-over of the repaired or new part. For goods which must be handled in a manner that is not generally known, **assembly** and operating instructions shall be separately supplied with the delivery without request. Prior to receipt of said documents, the goods shall neither be deemed to have been accepted nor delivered. In the event of failure to provide said documents, the supplier shall also be liable for such defects as may occur due to incorrect operation.

XII. Liability for defects upon the processing of sent-in parts

Upon the processing of material sent in by us, the supplier shall be liable for the proper execution in accordance with the drawing and the specifications. The supplier shall inspect the material sent in by use for defects and shall immediately inform us accordingly if applicable. If parts sent in become unusable during processing as a result of unrecognisable defects, verification of the processing costs

shall be submitted to us upon request. If the workpieces become unusable due to circumstances for which the supplier is responsible, it shall reimburse in full any associated damage. If damage for which we are contractually or legally liable occurs on the supplier's premises during processing to parts sent in by us, the following regulation shall be concluded:

The amount of our liability shall be limited to the sum of 1,000,000.00 €, if we have taken out a liability insurance that would be responsible for this case of damages with an insurance coverage of at least 1,000,000.00 €. This liability limitation shall not apply if our liability is based on wilful intent, fraudulent intent or gross negligence. Furthermore, it shall not apply to claims pertaining to the German Product Liability Act and to compensation claims filed against us on the grounds of loss of life, limbs, health or freedom of a person. In this respect we shall be unlimitedly liable to the extent covered by statutory provisions.

XIII. Place of jurisdiction, applicable law

Our registered office (Wetter) shall be the sole place of jurisdiction for all disputes arising from this agreement. We shall however be entitled to also choose the court responsible for the registered office or the affected branch of the supplier. This shall also apply to claims arising from cheques, bills of exchange and direct debit procedures. German law shall be solely applicable for all disputes arising in conjunction with this contract. The provisions of the German Civil Law (Bürgerliches Gesetzbuch) and the German Commercial Code (Handelsgesetzbuch) shall apply. The place of fulfilment for the services rendered by the supplier shall be the delivery location as stated by us. Otherwise the place of fulfilment shall be our registered office (Wetter).

XIV. Severability clause

Should a provision of these General Terms and Conditions of Purchase be or become ineffective, the effectiveness of the remaining provisions shall not be affected. In such a case, a provision shall apply which comes as close as possible to the aim intended by the invalid provision.

EZM Edelstahlzieherei Mark GmbH, April 2003