

## General terms and conditions of sale

### Section 1 Scope of application

1. The following General Terms and Conditions of Sale ("GTCS") of Zippe Industrieanlagen GmbH ("Zippe") are intended for use in business transactions only.
2. The GTCS apply to contracts for the sale and/or delivery of movable goods ("Goods"), regardless of whether the goods are manufactured by Zippe or purchased from suppliers (sections 433 and 650 of the German Civil Code (BGB)).
3. Deviating, conflicting or supplementary general terms and conditions of the respective purchaser ("Customer") shall only become part of the contract if and to the extent that Zippe has expressly agreed to their validity in writing. This requirement of consent applies in any case, even if Zippe carries out the delivery to the Customer without reservation despite being aware of the Customer's general terms and conditions.
4. Individual agreements made with the Customer in individual cases (including ancillary agreements, supplements and amendments) shall take precedence over these GTCS at all times. In the absence of proof to the contrary, a written contract and/or written confirmation from Zippe is decisive for the content of such agreements.
5. As soon as and insofar as the subject matter of the supply relationship should also include services under a contract for work and services (such as assembly services), Zippe's GENERAL TERMS AND CONDITIONS OF BUSINESS FOR SERVICES UNDER A CONTRACT FOR WORK AND SERVICES shall apply in addition.

### Section 2 Offers and conclusion of contract

1. Zippe's offers are without engagement and non-binding. This also applies if the Customer is provided with catalogues, designs, technical documentation (e.g. plans, calculations, references to DIN standards), drawings or other product descriptions or documents – including in electronic form – to which Zippe reserves title and copyrights.
2. The order of the Goods by the Customer is deemed to be a binding offer of contract. Unless otherwise stated in the order, Zippe is entitled to accept this offer of contract within two weeks upon receipt.
3. Acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of the Goods to the Customer.

### Section 3 Term of delivery and delay in delivery

1. The term of delivery shall be agreed individually. The term of delivery shall only commence after clarification of the technical questions still open at the time the contract is concluded and after receipt of any drawings and other documents, approvals or releases to be procured by the Customer, which are necessary for the execution of the order, as well as any down payments to be made. The term of delivery shall be deemed to have been met if the delivery item has left Zippe's factory or notification of readiness for dispatch has been given by the time the term of delivery expires.
2. Should Zippe be unable to meet binding terms of delivery for reasons not attributable to Zippe's sphere of responsibility (non-availability of the performance), the Customer will be informed of this without delay and at the same time, the Customer will be notified of the expected new term of delivery. If the performance is again not available within the new term of delivery, Zippe is entitled to withdraw from the contract in whole or in part; any consideration already paid by the Customer will be refunded without delay. A case of non-availability of the performance as defined herein is deemed to be, in particular, non-timely delivery by suppliers, if Zippe has concluded a congruent hedging transaction, if neither Zippe nor the supplier is at fault or if Zippe is not responsible for procurement in the individual case.
3. Delivery is subject to the granting of export licences by the competent authority, if any.

4. The occurrence of the delay in delivery shall be subject to statutory provisions. However, in any case, a reminder by the Customer is required.

5. The Customer's rights pursuant to section 10 and the statutory rights of Zippe, including in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

#### **Section 4 Delivery, passing of risk, acceptance, delay in acceptance**

1. Delivery is ex works, which is also the place of performance for the delivery and any subsequent performance. At the Customer's request and expense, the Goods shall be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, Zippe is entitled to determine the type of shipment (including but not limited to the transport company, shipping route, packaging). We reserve the right to make partial deliveries.

2. The risk of accidental loss and accidental deterioration of the Goods shall pass to the Customer upon delivery at the latest. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the Goods as well as the risk of delay shall pass upon delivery of the Goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. Insofar as acceptance has been agreed, this shall be decisive for the determination of the passing of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply mutatis mutandis to an agreed acceptance. Any delay in acceptance by the Customer shall be deemed to be a delivery and/or acceptance. The Customer is responsible for import clearance.

3. If the Customer is in default of acceptance, fails to cooperate (e.g. immediate confirmation of the delivery date announced by Zippe) or if delivery is delayed for other reasons attributable to the Customer's sphere of responsibility, Zippe shall be entitled to demand compensation for the resulting damage, including additional expenses (e.g. storage costs).

#### **Section 5 Prices and terms of payment**

1. Unless otherwise agreed in the individual case, Zippe's list prices applicable at the time of the contract is concluded shall apply, ex works, plus statutory value added tax.

2. In the case of a sale by delivery to a place other than the place of performance (section 4(1)), the Customer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by the Customer. Any customs duties, fees, taxes and other public charges shall be borne by the Customer.

The Customer shall also bear the costs of taking back transport and sales packaging insofar as they do not recycle it themselves. The obligation to refund shall also apply insofar as Zippe is legally obliged to take back packaging.

3. The purchase price is due and payable 10 days after invoicing and delivery and/or acceptance. However, Zippe is entitled at any time, even within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. A corresponding reservation shall be declared with the order confirmation at the latest.

4. Upon expiry of the aforementioned term of payment, the Customer shall be in default. During the period of default, the purchase price shall bear interest at the statutory default interest rate applicable at the time. Zippe reserves the right to assert further damage caused by default. With respect to merchants, the claim to commercial default interest (section 353 of the German Commercial Code (HGB)) shall remain unaffected.

5. The Customer shall only be entitled to rights of set-off or retention insofar as their claim has been legally established or is undisputed. In the event of defects in delivery, the Customer's opposing rights shall remain unaffected.

6. If it becomes apparent after the conclusion of the contract (e.g. by filing for insolvency proceedings) that the claim to the purchase price is at risk due to the Customer's inability to pay, Zippe is entitled to refuse performance in accordance with the statutory provisions and – after setting a deadline, if any – to withdraw from the contract (section 321 of the German Civil Code). In the case of contracts for the manufacture of unjustifiable items (custom-made products), withdrawal may be declared by Zippe immediately; the statutory provisions applicable to cases where setting a deadline is not necessary shall remain unaffected.

## **Section 6      Retention of title**

1. Zippe shall reserve title to the Goods sold until full payment of all current and future claims arising from the purchase contract and an ongoing business relationship (secured claims).

2. The Goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The Customer shall notify Zippe in writing without delay if an application is made to initiate insolvency proceedings or insofar as third parties have access to the Goods (e.g. seizures).

3. In the event of breach of contract by the Customer, including but not limited to failure to pay the purchase price due, Zippe shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to demand the return of the Goods on the basis of the retention of title. The request for the return of the Goods shall not be deemed to be a declaration of withdrawal; in fact, Zippe is entitled to demand only the return of the Goods and to reserve the right to withdraw from the contract. Should the Customer fail to pay the purchase price when due, Zippe may only assert these rights after having set a reasonable deadline for payment and such deadline expired without success or setting a deadline is not necessary according to the statutory provisions.

4. In the absence of a revocation in accordance with (c) below, the Customer is authorised to resell and/or process the Goods subject to retention of title in the ordinary course of business. In this case, the following supplementary provisions shall apply:

(a) The retention of title extends to the products resulting from the processing, mixing or combining of the Goods at their full value, whereby Zippe is deemed to be the manufacturer. If, in the event of processing, mixing or combining with third-party goods, the right of ownership of such third parties remains in force, Zippe shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the Goods delivered under retention of title.

(b) Effective immediately, the Customer shall assign to Zippe by way of security the claims against third parties arising from the resale of the Goods or the product in total or in the amount of Zippe's co-ownership share, if any, in accordance with the preceding paragraph. Zippe accepts the assignment. The obligations of the Customer set out in para. 2 shall apply *mutatis mutandis* to the assigned claims.

(c) Both Zippe and the Customer shall remain authorised to collect the claim. Zippe undertakes not to collect the claim as long as the Customer meet their payment obligations towards Zippe, there is no deficiency in their ability to perform and Zippe does not assert the retention of title by exercising a right in accordance with para. 3. In this case, however, Zippe may demand that the Customer discloses the assigned claims and their debtors to Zippe, provides any and all information required for collection, hands over the associated documents and notifies the debtors (third parties) of the assignment. Furthermore, Zippe is entitled to revoke the Customer's authority to further sell and process the Goods subject to retention of title.

(d) If the realisable value of the securities exceeds Zippe's claims by more than 10%, Zippe shall release securities of their choice at the Customer's request.

## **Section 7      Assignment**

The Customer shall only be entitled to assign the rights arising from the contract – with the exception of payment claims – with the prior consent of Zippe. Consent may only be refused for good cause.

## **Section 8      Customer's obligations**

1. It is the Customer's responsibility to comply with the technical specifications issued by Zippe and to create the necessary environment to be able to use the Goods properly. The Customer shall continue to handle the Goods with care and store them properly.

2. Insofar as Zippe names a third party as a service provider to the Customer, this shall only be deemed to be a recommendation. The service provider is not Zippe's vicarious agent.

## Section 9 Claims based on defects

1. The statutory provisions shall apply to the Customer's rights in the event of material defects and defects of title, unless otherwise stipulated below. In all cases, the special statutory provisions relating to the final delivery of the unprocessed Goods to a consumer, even if the consumer has processed them further (supplier recourse pursuant to section 478 of the German Civil Code) shall remain unaffected. Claims from supplier recourse are excluded if the defective Goods have been further processed by the Customer or another entrepreneur (e.g. into components).

2. The basis of the liability for defects is primarily the agreement made on the quality of the Goods. All product descriptions and manufacturer's specifications that are the subject of the individual contract or were publicly announced by Zippe (in particular on the website) at the time the contract was concluded, shall be deemed to be an agreement on the quality of the Goods.

3. To the extent the quality has not been agreed, the question of whether there is a defect must be assessed based on the statutory provision (section 434(1)(2) and (3) of the German Civil Code). However, Zippe accepts no liability for public statements made by the manufacturer or other third parties (e.g. advertising statements) to which the Customer has not drawn Zippe's attention as being decisive for the purchase.

4. Zippe shall not be liable for defects that the Customer is aware of or is grossly negligently not aware of at the time the contract is concluded (section 442 of the German Civil Code). Furthermore, the Customer shall only be entitled to assert claims based on defects if they duly fulfilled their statutory obligations to inspect and give notice of defects (sections 377 and 381 of the German Commercial Code). In the case of Goods intended for installation or other further processing, an inspection must in any case be carried out immediately before processing. If a defect becomes apparent during delivery, inspection or at a later time, Zippe must be notified of this in writing without delay. In any case, obvious defects must be reported in writing within five working days from delivery and defects not recognisable during inspection within the same period from discovery. Should the Customer fail to properly inspect the goods and/or give notice of defects, liability for the defect not reported or not reported in time or not reported properly shall be excluded in accordance with the statutory provisions.

5. If the delivered item is defective, Zippe may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a non-defective item (replacement). The right to refuse subsequent performance in accordance with statutory requirements shall remain unaffected. Zippe reserves the right to make two attempts at subsequent performance, unless this is unreasonable for the Customer.

6. Zippe is entitled to make the subsequent performance owed dependent on the Customer paying the purchase price due. However, the Customer shall be entitled to retain part of the purchase price reasonably proportionate to the defect.

7. The Customer must grant Zippe the time and opportunity required for the subsequent performance owed, including but not limited to the delivery of the rejected Goods for inspection purposes. In the event of a replacement delivery, the Customer shall return the defective item in accordance with the statutory provisions. Subsequent performance does not include the removal of the defective item or the re-installation, provided Zippe was not originally obliged to install it.

8. The expenses necessary for the purpose of inspection and subsequent performance, including but not limited to transport, travel, labour and material costs as well as, if applicable, removal and installation costs, shall be borne and/or reimbursed in accordance with the statutory provisions if a defect is actually present. Otherwise, Zippe may demand reimbursement from the Customer of the costs incurred as a result of the unjustified request to remedy the defect (including but not limited to inspection and transport costs), unless the lack of defectiveness was not recognisable to the Customer.

9. In urgent cases, e.g. if operational safety is at risk or to prevent disproportionate damage, the Customer shall be entitled to remedy the defect themselves and to demand reimbursement from Zippe for the expenses reasonably required. Zippe must be notified of any such repair without delay, if possible in advance. The Customer shall not be entitled to perform such repair work if Zippe would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.

10. If the subsequent performance has failed or a reasonable period of time to be set by the Customer for the subsequent performance has expired unsuccessfully or is not necessary according to the statutory provisions, the Customer is entitled to withdraw from the purchase contract or to reduce the purchase price. In the case of a minor defect, however, there is no right of withdrawal.

11. The Customer's claims for damages and/or reimbursement of futile expenses shall also exist in the case of defects only in accordance with section 10 and are otherwise excluded.

## **Section 10 Other liability**

1. Unless otherwise stipulated in these GTCS, including the following provisions, Zippe shall be liable for a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
2. Zippe's liability for damages, irrespective of the legal grounds, shall be limited to wilful intent and gross negligence within the scope of fault-based liability. In the event of simple negligence, subject to statutory limitations of liability (e.g. care in own affairs; minor breach of duty), only
  - (a) for damage resulting from injury to life, limb or health,
  - (b) for damage arising from the breach of a material contractual obligation (obligation the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the contractual partner regularly relies and may rely); in this case, however, liability shall be limited to compensation for the foreseeable, typically occurring damage.
3. The limitations of liability resulting from para. 2 also apply to third parties as well as in the event of breaches of duty by persons (also in their favour) whose fault Zippe is responsible for according to statutory provisions. They shall not apply insofar as a defect was fraudulently concealed or a guarantee for the quality of the Goods was assumed and for claims of the Customer under the Product Liability Act.
4. The Customer may only withdraw from or terminate the contract due to a breach of duty that is not a defect, if Zippe is responsible for the breach of duty. The Customer shall not be entitled to terminate the contract without cause (in particular in accordance with sections 650 and 648 of the German Civil Code). In all other respects, the statutory requirements and legal consequences shall apply.
5. The Customer shall indemnify Zippe against any and all third-party claims that are raised on the grounds that a workpiece manufactured using Zippe's Goods infringes the rights of third parties.

## **Section 11 Limitation**

1. In deviation from section 438(1)(3) of the German Civil Code, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.
2. Should the Goods be a building or an item which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with statutory provisions (section 438(1)(2) of the German Civil Code). Other special statutory provisions on limitation (including but not limited to sections 438(1)(1), 438(3), 444 and 445b of the German Civil Code) shall also remain unaffected.
3. The above limitation periods applicable to the sale of goods shall also apply to the Customer's contractual and non-contractual claims for damages based on a defect of the Goods, unless the application of the regular statutory limitation periods (sections 195 and 199 of the German Civil Code) provides for a shorter limitation period in individual cases. The Customer's claims for damages pursuant to section 10(2)(1) and (2)(a), as well as pursuant to the Product Liability Act, shall become time-barred in accordance with the statutory limitation periods exclusively.

## **Section 12 Subcontractor**

Zippe is entitled to perform under the contract through subcontractors, which shall not affect Zippe's liability towards the Customer.

## **Section 13 Property rights**

All property rights and exploitation rights to the Goods, the documents transmitted or created in connection with them or the contractual performance, as well as to developments or discoveries made by Zippe in the course of the contractual performance or processing shall remain with Zippe. The Customer's right to use the Goods (including custom developments) is non-exclusive, limited to the Customer's internal business purposes and governed solely by the contract and these conditions.

In-house production of the delivered Goods is not permitted.

#### **Section 14      References**

Zippe is entitled to use the feedback and further know-how obtained through the contractual performance in order to improve Zippe's own service and products. Both parties shall ensure that no property rights or confidentiality obligations are violated in publications.

Zippe is entitled to use customer relations and logos of the customers for its own publications (including on their website), provided the Customer consents to the publication.

#### **Section 15      Confidentiality**

1. Zippe and the Customer undertake to treat all business and technical information and documents received from the other party as strictly confidential and to use these exclusively for the purposes of the contract, insofar as and as long as there is a justified interest in their confidential treatment.

2. This restriction shall not apply to information which has demonstrably been in the public domain or has been already known to the recipient at the time of transfer or which is published after transfer to the recipient, for reasons not attributable to the recipient. The recipient shall inform the holder without delay of the existence of any of the above exceptions or if requested by a court, an authority or a third party to disclose confidential information. Confidential Information may only be disclosed to third parties to the extent that they are employees, vicarious agents or consultants of the party or its affiliates (collectively: "Agents"), who are obliged to maintain confidentiality and require knowledge for the purposes of the contract. Each party shall ensure that the provisions of this confidentiality clause are observed by its Agents. This confidentiality clause shall survive the termination of the contract.

#### **Section 16      Choice of law and place of jurisdiction**

1. These GTCS and the contractual relationship between Zippe and the Customer are governed by the laws of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

2. If the Customer is a merchant for the purposes of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive national and international place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of Zippe. The same shall apply mutatis mutandis if the Customer is an entrepreneur as defined in section 14 of the German Civil Code. However, Zippe shall also be entitled in all cases to bring an action at the place of performance for the delivery obligation in accordance with these GTCS and/or in accordance with a prior-ranking individual agreement or at the Customer's general place of jurisdiction.

Overriding statutory provisions, including without limitation on exclusive places of jurisdiction, shall remain unaffected.