

General terms and conditions

for services within the framework of a contract for work and services

Section 1 Scope of application

1. All contracts, deliveries, services and offers of Zippe Industrieanlagen GmbH ("**Contractor**") are subject to these General Terms and Conditions ("**GTC**"), insofar as they relate to the production of an item and/or the bringing about of a specific success (sections 631 et seqq. of the German Civil Code (BGB)) and insofar as the contractual partner ("**Client**") is an entrepreneur within the meaning of section 14 of the German Civil Code.
2. Deviating, conflicting or supplementary general terms and conditions of the respective Client shall only become part of the contract if and to the extent that the Contractor has expressly agreed to their validity in writing. This requirement of consent shall apply in any case, for example even if the Contractor performs the service without reservation despite being aware of the Client's general terms and conditions.
3. Individual agreements made with the Client in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these GTC. In the absence of proof to the contrary, a written contract and/or written confirmation by the Client shall be decisive for the content of such agreements.

Section 2 Services of the Contractor

The Contractor offers batch and cullet plants as well as parts and other services for these. In doing so, they may fulfil their contractual obligations themselves or through third parties commissioned by them.

Section 3 Conclusion of contract/documents

1. Offers made by the Contractor are without engagement unless expressly agreed otherwise. The Contractor may accept orders for goods and services within 14 days.
2. The Contractor retains ownership/copyright to all offers and cost estimates submitted as well as to drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and resources made available to the Client.

Section 4 Remuneration

1. The Contractor's remuneration shall be based on the contractual agreements. Unless otherwise agreed in the individual case, the Contractor's current internal target prices at the time the contract is concluded shall apply, plus statutory value added tax.
2. Unless otherwise agreed in the individual case, an appropriate down payment of 50% of the remuneration shall be due and payable at the time the order is placed. Unless otherwise agreed in the individual case, the unpaid balance shall be due and payable upon completion and acceptance of the work.
3. The Contractor may make the commencement of work dependent on the receipt of the down payment.
4. Should the parties agree on an additional service to be provided, which is not provided for in accordance with section 2, the Contractor shall be entitled to additional remuneration. This additional remuneration must be announced in good time before commencing the additional performance.

Section 5 Payment

1. The remuneration (section 4) is payable within 10 days after receipt of the invoice. Payment shall be made net to a business account to be determined by the Contractor, stating the invoice number specified by the Contractor and the cost unit.
2. Upon expiry of the aforementioned payment deadline, the Client shall be in default. During the period of default, the remuneration shall bear interest at the statutory default interest rate applicable at the time. The Contractor 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.
3. The Client 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 performance, the Client's opposing rights shall remain unaffected.

Section 6 Processing period/deadlines/force majeure

1. Deadlines for processing and further services promised by the Contractor are always only approximate, unless a fixed deadline has been expressly promised or agreed.
2. The Contractor may – without prejudice to their rights arising from the Client's default – demand from the Client an extension of the deadlines or a postponement of performance dates by the period of time during which the Client fails to fulfil their contractual obligations towards the Contractor pursuant to section 11.
3. The Contractor shall not be liable for the impossibility of performance insofar as this is caused by force majeure or other events unforeseeable at the time the contract is concluded (e.g. pandemics, operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, difficulties in procuring necessary official permits, official measures or the failure of suppliers to deliver or to deliver correctly or on time) for which the Contractor is not responsible. Insofar as such events make it significantly more difficult or impossible for the Contractor to perform and the hindrance is not only of a temporary nature, the Contractor shall be entitled to withdraw from the contract. In the event of temporary hindrances, the performance deadlines shall be extended or the performance dates shall be postponed by the period of the hindrance plus a reasonable start-up period. Insofar as the Client cannot reasonably be expected to accept the delivery or service as a result of the delay, they may withdraw from the contract by means of an immediate written declaration to the Contractor.
4. The Contractor is entitled to make partial deliveries if
 - the partial delivery is usable for the Client within the scope of the contractual purpose,
 - the delivery of the remaining ordered goods is ensured and
 - the Client does not incur any significant additional expenses or costs as a result (unless the Contractor agrees to bear these costs).
5. If the Contractor is in default with a delivery or service or if a delivery or service becomes impossible for them, for whatever reason, the Contractor's liability for damages shall be limited in accordance with section 9 of these GTC.

Section 7 Place of performance/dispatch/passing of risk/acceptance

1. The place of performance for all obligations arising from the contractual relationship shall be the Contractor's registered office, unless otherwise stipulated.
2. The method of dispatch and the packaging shall be at the Contractor's discretion.
3. The risk shall pass to the Client no later than at the time the subject matter of the contract is handed over to the forwarding agent, carrier or other third party designated to carry out the shipment. This shall also apply if partial deliveries are made or the Contractor has assumed other services (e.g. dispatch or installation). Should dispatch or delivery be delayed as a result of a circumstance caused by the Client, the risk shall pass to the Client from the day on which the delivery item is ready for dispatch and the Contractor has notified the Client of this.
4. The Contractor shall only insure the consignment against theft, breakage, transport, fire and water damage or other insurable risks at the express request and expense of the Client.
5. Unless otherwise agreed, the work shall be deemed accepted as soon as

- the delivery has taken place,
- the Contractor has notified the Client thereof with reference to the deemed acceptance pursuant to this section 7(5) and has requested the Client to accept the work,
- 12 working days have elapsed since delivery or the Client has started using the subject matter of the contract and in this case six working days have elapsed since delivery and
- the Client has failed to take delivery within this period for a reason other than a defect notified to the Contractor, which renders the use of the subject matter of the contract impossible or impairs it significantly.

Section 8 Warranty/material defects

1. The warranty period is one year from delivery or acceptance. This period shall not apply to claims for damages by the Client arising from injury to life, limb or health or from intentional or grossly negligent breaches of duty by the Contractor or their vicarious agents, which shall each become statute-barred in accordance with the statutory provisions.
2. The contractual items shall be inspected carefully immediately after delivery to the Client or to the third party designated by them. With regard to obvious defects or other defects which would have been recognisable in the course of an immediate, careful inspection, they shall be deemed to have been approved by the Client if the Contractor does not receive a notice of defects in text form within five working days of delivery. With regard to other defects, the delivery items shall be deemed to have been approved by the Client if the notice of defect is not received by the Contractor within five working days after the point in time at which the defect became apparent; however, if the defect was already apparent at an earlier point in time during normal use, this earlier point in time shall be decisive for the commencement of the period for giving notice of defect. At the Contractor's request, a rejected delivery item shall be returned to the Contractor carriage paid. In the event of a justified notice of defect, the Contractor shall reimburse the costs of the most favourable shipping route; this shall not apply insofar as the costs increase because the delivery item is located at a place other than the place of intended use.
3. In the event of material defects in the contractual items, the Contractor shall first be obliged and entitled, at their discretion, to either rectify the defect or to make a replacement delivery within a reasonable period of time. In the event of failure, i.e. impossibility, unreasonableness, refusal or unreasonable delay of the repair or replacement delivery, the Client may withdraw from the contract or reduce the purchase price appropriately.
4. If a defect is attributable to the Contractor's fault, the Client may claim damages under the conditions set out in section 9.
5. The warranty shall not apply if the Client modifies the subject matter of the contract or has it modified by a third party without the Contractor's consent and this makes it impossible or unreasonably difficult to remedy the defect. In any case, the Client shall bear the additional costs of remedying the defect resulting from the change.

Section 9 Liability for damages due to fault

1. The Contractor's liability for damages, irrespective of the legal grounds, in particular for impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contractual negotiations and tort, shall be limited in accordance with the provisions of this section 9, insofar as fault is relevant in each case.
2. The Contractor shall not be liable in the event of simple negligence on the part of its bodies, legal representatives, employees or other vicarious agents, insofar as this does not involve the breach of a material contractual obligation (such as an obligation which, according to its content and purpose, the contract specifically intends to impose on the Contractor or the fulfilment of which makes the proper performance of the contract possible in the first place and on the observance of which the Client regularly relies and may rely).
3. Insofar as the Contractor is liable on the merits for damages in accordance with section 9(2), this liability shall be limited to damage which the Contractor foresaw as a possible consequence of a breach of contract at the time the contract was concluded or which they should have foreseen by exercising due care. Indirect damage and consequential damage resulting from defects in the delivery item shall only be deemed to be a recoverable damage insofar as such damage is typically to be expected if the contractual item is used as intended.
4. The above limitations of liability shall apply to the same extent in favour of the bodies, legal representatives, employees and other vicarious agents of the Contractor.

5. The limitations of this section 9 shall not apply to the Contractor's liability for intentional conduct, for guaranteed characteristics, for injury to life, limb or health or in accordance with the Product Liability Act.

Section 10 Retention of title

1. Until full settlement of all present and future claims arising from the contract for work and services and an ongoing business relationship (secured claims), the contractor retains ownership of the contractual items.
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 Client shall notify the Contractor in writing without delay if an application is made to initiate insolvency proceedings or insofar as third parties have access to the goods belonging to us (e.g. seizures).
3. In the event of breach of contract by the Client, including but not limited to failure to pay the remuneration due, the Contractor shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to request the return of the subject matter of the contract 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, the Contractor is entitled to demand only the return of the subject matter of the contract and to reserve the right of withdrawal. Should the Client fail to pay the remuneration, the Contractor is only entitled to assert these rights if they have previously set a reasonable deadline for payment and such deadline expired without success or if setting such a deadline is not necessary in accordance with the statutory provisions.
4. In the absence of a revocation in accordance with (c) below, the Client 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 the Contractor is deemed to be the manufacturer. If, in the event of processing, mixing or combining with third-party goods, their right of ownership of such third parties remains in force, the Contractor 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 Client shall assign to the Contractor by way of security any claims against third parties arising from the resale of the goods or the product in total or in the amount of any co-ownership share of the Contractor in accordance with the preceding paragraph. The Contractor accepts the assignment. The obligations of the Client set out in section 10(2) shall apply mutatis mutandis to the assigned claims.
 - (c) Both the Contractor and the Client shall remain authorised to collect the claim. The Contractor undertakes not to collect the claim as long as the Client meet their payment obligations towards the Contractor, there is no deficiency in their ability to perform and the Contractor does not assert the retention of title by exercising a right pursuant to section 10(3). In this case, however, the Contractor may demand that the Client discloses the assigned claims and their debtors, provides any and all information required for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. In addition, the Contractor is entitled to revoke the Client's authority to further sell and process the goods subject to retention of title.
 - (d) If the realisable value of the securities exceeds the claims of the Contractor by more than 10%, the Contractor shall release securities of their choice at the request of the Client.

Section 11 Client's obligations

1. The Client agrees to support and promote the Contractor's performance to the extent agreed or otherwise to the extent necessary and required. This includes, but is not limited to the timely communication of all necessary information, data and framework conditions as well as the accurate and timely reply to or decision on arising questions for the further performance of the services by the Contractor.
2. Contact persons or points of contact named by the Client shall be deemed to be authorised to make the declarations or decisions on the part of the Client required for the performance of the services.
3. Should the Client be in default with the acceptance of the Contractor's performance or should the Client fail to provide or delay providing any cooperation required in accordance with section 11(1) and/or section 11(2) and/or otherwise, the Contractor may demand the agreed remuneration for the services not provided as a result, without being obliged to provide subsequent performance. This shall not affect the Contractor's claims for compensation for additional expenses incurred.

Section 12 Secrecy

1. The Client shall be obliged to treat the order as confidential and to treat information and knowledge obtained on the basis of this contract as confidential vis-à-vis third parties, including after the termination of the contract, not to make it accessible to third parties, to protect it from access by third parties and not to use it for third parties within the scope of their own work. This obligation shall apply for the term of the contract and beyond, until the information is disclosed.
2. This obligation shall not apply to information demonstrably known to the Client prior to receiving it under this contract, information independently developed by the Client or otherwise lawfully obtained by the Client or information of a general nature or that becomes publicly known without breach of this contract.
3. The Client shall ensure in a reasonable form that the employees, freelancers and subcontractors they employ in an admissible manner for the performance of this contract observe the aforementioned confidentiality. At the request of the Contractor, the Client shall provide written evidence of such steps taken.

Section 13 Industrial property rights/intellectual property

1. The Contractor warrants that the use of the goods and services provided by them is possible without infringing the rights of third parties. Each contracting party shall notify the other contracting party in writing without undue delay if claims are asserted against them for the infringement of such rights.
2. Insofar as copyrights, patent rights or other industrial property rights have arisen in or from the Contractor's work results, the Contractor shall be exclusively entitled to these. The Client is obliged to maintain secrecy.
3. The Client shall receive an unlimited, non-exclusive exploitation right to the performance of the Contractor, limited to the territory of the country in which the work was constructed, unlimited in time, in order to be able to manufacture, process and distribute corresponding products with the work, without the right to transfer it to third parties or to sublicense it. The Client shall be granted an unlimited, non-exclusive, non-sublicensable and non-transferable exploitation right, limited to the territory of the country in which the work was erected, unlimited in time, to the documents (e.g. documentation, drawings, etc.) provided by the Contractor for the purpose of operating, maintaining and repairing the work. Insofar as already existing industrial property rights or industrial property rights of the Contractor arising during the development work are included in the development result, the Client shall receive an unlimited, non-exclusive licence against payment, limited to the exploitation of these rights in the development result as a whole. Details are governed by a separate contract. The Client may only assert the above rights after full payment of our underlying services.
4. Each contracting party shall register their inventions for industrial property rights in their own name and at their own expense. The contracting parties shall each bear the inventor's remuneration for their inventors themselves. Joint inventions within the contractual services shall be filed jointly in accordance with the shares each of the contracting parties has in the invention, sharing the costs incurred.

Section 14 References

1. The Contractor shall be entitled to use the feedback and further know-how obtained through the contractual performance to improve their own service and products. Both parties shall ensure that no industrial property rights or confidentiality obligations are violated in publications.

Section 15 Final provisions

1. Should the Client be a merchant, a legal entity under public law or a special fund under public law or should they have no general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for any disputes arising from the business relationship between the Contractor and the Client shall be – at the Contractor's discretion – the Contractor's registered office or the Client's registered office. In these cases, however, the Contractor's registered office shall be the exclusive place of jurisdiction for actions against the Contractor. Mandatory statutory provisions on exclusive places of jurisdiction shall remain unaffected by this provision.

2. The relationship between the Contractor and the Client shall be governed exclusively by the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.
3. Insofar as the contract or these GTC contain gaps, those legally effective provisions shall be deemed agreed to fill these gaps, which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these GTC had they been aware of the gap.