

# General Terms and Conditions of Zubler Gerätebau GmbH (Zubler), Ulm

## 1. Scope of Application

- 1.1 Zubler's deliveries, services and offers shall be based exclusively on these General Terms and Conditions. They shall apply to all business transactions between Zubler and the customer, even if they have not been expressly agreed again.
- 1.2 The terms and conditions shall apply at the latest upon receipt of the order confirmation. Counter-confirmations by the customer with reference to his terms and conditions are hereby expressly rejected.
- 1.3 Offers made by Zubler on the basis of these General Terms and Conditions are directed exclusively at entrepreneurs and commercial resellers, but not at consumers.
- 1.4 Entrepreneurs within the meaning of Section 14 BGB are natural or legal persons or a partnership with legal capacity who, when concluding a legal transaction, are acting in the exercise of a commercial or independent professional activity. Legal entities under public law and special funds under public law are also deemed to be entrepreneurs within the meaning of the General Terms and Conditions.
- 1.5 The content and scope of the agreed services shall be determined, in the following order, by (i) any individual contract concluded between Zubler and the customer with its annexes; (ii) the order confirmation; (iii) supplementary service descriptions, including any operating instructions and technical specifications issued; (iv) these Terms and Conditions; and (v) the statutory provisions. There are no further agreements between the parties.

## 2. Offers

- 2.1 Our offers are subject to change. Zubler may revoke the offer at any time until written acceptance of a customer order (order confirmation).
- 2.2 Information in brochures, leaflets, advertisements, online media and other advertising material published by Zubler shall not be binding.
- 2.3 The offers in Zubler's online store do not constitute binding contractual offers. They are merely an invitation to the customer to submit an offer for the corresponding item.

## 3. Order Execution, Acceptance

- 3.1 Work carried out according to the customer's specifications shall be executed by Zubler in accordance with the defined conditions.
- 3.2 Orders in the Zubler online store can only be placed after the customer has successfully registered. After successful login, the customer can select a product from the product range. By clicking on the "Send order" button, the customer places a binding order. The order can only be placed if the customer has previously accepted these terms and conditions. Zubler shall confirm receipt of the customer's order without delay. Confirmation of receipt of the order shall be made by sending an order confirmation or an invoice to the customer by e-mail. Should Zubler determine during the technical review of the customer's details that the order cannot be carried out, or in any case cannot be carried out under the agreed conditions, Zubler shall inform the customer of this and, if necessary, submit an adjusted offer. In this case, both parties shall also have an extraordinary right to withdraw from the contract.
- 3.3 Changes and additions to the order requested by the customer after order confirmation require a separate agreement between the parties.
- 3.4 The customer must accept the work within the period set by Zubler. If this period expires without result although the customer would have been obliged to accept the work, the work shall be deemed to have been accepted.
- 3.5 Zubler shall have the right to charge a storage fee of 1 (one) % of the net order value for each month or part thereof after notification of readiness for dispatch or to store the goods elsewhere at the customer's expense.

## 4. Terms of Delivery

- 4.1 The agreed delivery period shall commence on the date of receipt of the order confirmation. Compliance with the delivery period shall be subject to the timely receipt of all documents to be supplied by the customer, compliance with the agreed payment and other conditions for delivery. Zubler shall only be liable for compliance with delivery deadlines if it has expressly assumed a guarantee in writing.

- 4.2 Our deliveries are EXW (INCOTERMS 2023). The risk of transportation to the customer's registered office or to another place of delivery specified by the customer shall be borne by the customer. If requested by the customer, transport insurance can be taken out at the customer's expense.
- 4.3 Binding delivery periods and dates confirmed in writing shall be deemed to have been met if the goods have left Zubler's warehouse by the time they expire or if the goods cannot be dispatched on time through no fault of Zubler, but notification of readiness for dispatch has been given.
- 4.4 To the extent that the customer is not unreasonably disadvantaged thereby, Zubler shall be entitled to make partial deliveries. Any additional costs incurred in this respect shall be borne by Zubler.
- 4.5 Our standard packaging complies with the applicable statutory provisions. In our experience, they are sufficiently suitable for the transportation of the products and are in line with standard commercial practice. The customer's shipping instructions must be communicated to Zubler with the order or upon conclusion of the contract. Packaging deviating from our standard packaging shall be remunerated separately.
- 4.6 If the customer is domiciled outside Germany, he shall be responsible for any necessary registration in accordance with the statutory and sub-statutory provisions and for the proper disposal of the packaging in accordance with the statutory provisions.

## 5. Prices and Terms of Payment

- 5.1 The prices quoted are net prices in euros, plus the applicable statutory value added tax. For orders in foreign currency, the currency prices stated in the order/contract shall apply.
- 5.2 The final prices are ex works or ex warehouse and do not include the costs for packaging, transportation and insurance, if applicable.
- 5.3 The prices valid on the day the contract is concluded or agreed by the parties shall be invoiced. If, as a result of circumstances for which the customer is responsible, deliveries of goods can only be made later than four (4) months after conclusion of the contract, the prices valid at the time of delivery shall be payable. Zubler's invoices are due immediately upon receipt and payable without deduction.
- 5.5 Despite any provisions to the contrary, Zubler shall be entitled to offset payments against older claims first. Zubler shall inform the customer of the method of offsetting. If costs and interest have already been incurred as a result of default, Zubler shall be entitled to offset incoming payments first against the costs, then against the interest and finally against the principal performance.
- 5.6 If the customer is in default, Zubler shall be entitled to demand default interest in accordance with the statutory provisions from this point in time.
- 5.7 Offsetting against Zubler shall only be possible with claims that are legally established, undisputed or recognized by Zubler.
- 5.8 In the event of premature termination of a contract by the customer, the customer shall pay the full remuneration for the services provided by Zubler up to that point. Any damage incurred by Zubler as a result of premature, unjustified termination of the contract shall be borne by the customer.
- 5.9 Zubler shall be entitled to adjust the prices in accordance with the cost increases that have occurred between the order and the delivery. This shall apply in particular if the costs of raw materials and auxiliary materials have risen since the order was placed, if collectively agreed wage increases have occurred and if the costs of freight and public fees and charges have risen.
- 5.10 The customer shall be notified of price changes at least one month in advance in text form (e-mail is sufficient). In the event of an increase of more than 10%, the customer is entitled to terminate contracts with effect from the end of a month within a period of one month after receipt of the request for an increase.

## 6. Retention of Title

- 6.1 The delivered goods shall remain the property of Zubler until the agreed purchase price has been paid in full.
- 6.2 Zubler shall retain title to the goods until all outstanding claims arising from the current business relationship have been settled in full.

6.3 If the retention of title expires due to resale, combination or processing, the new item or the resulting claim shall take the place of the retention of title. In the event of processing, blending or mixing with goods not belonging to Zubler, Zubler shall acquire co-ownership of the new item in the ratio of the invoice value of the goods subject to retention of title to the total value including VAT.

6.4 The customer hereby assigns to Zubler the entire claim including value added tax with all ancillary rights arising from the resale of the goods subject to retention of title - including any balance claims. Zubler hereby accepts the assignment. The customer shall be authorized to collect the assigned claims as long as it meets its payment obligations towards Zubler. The authorization to collect shall expire upon revocation, but at the latest upon default of payment by the customer. In this case, Zubler is hereby authorized by the customer to inform the purchasers of the goods of the assignment and to collect the claim itself.

6.5 After justified withdrawal from the contract by Zubler, the customer shall return the goods subject to retention of title to Zubler. If the customer does not return the goods or does not return them immediately, Zubler may collect the goods from the customer or have them collected even without the existence of a legally enforceable title. The costs of transportation shall be borne by the customer.

## 7. Defects

7.1 The customer's rights in respect of defects presuppose that he has properly fulfilled his obligations to inspect the goods and give notice of defects in accordance with § 377 of the German Commercial Code (HGB) and has notified Zubler immediately of any defects found.

7.2 A material defect is given if the services do not have the contractually agreed quality or are not suitable for the contractually agreed use. Customary deviations from color, dimension or quantity specifications are not material defects.

7.3 In the event of a defect for which Zubler is responsible, Zubler shall be free to choose between subsequent performance and rescission.

7.4 In the event of delivery of a replacement item, Zubler may demand that the defective item be surrendered by the customer in advance.

7.5 If Zubler chooses to remedy the defect by rectification, Zubler shall be granted a reasonable period of time by the customer to allow at least two attempts at rectification. If Zubler is not successful within the period set, the customer shall be entitled to reduce the remuneration or withdraw from the contract at its discretion.

7.6 Waiting for deadlines and setting deadlines by the customer shall be dispensable if this is unreasonable for the customer, in particular if Zubler finally and seriously refuses subsequent performance.

7.7 Subsequent performance shall not be deemed to have failed after the second attempt at rectification. Rather, Zubler shall be free to choose the number of attempts at subsequent performance during the grace period set.

7.8 Zubler shall not assume any warranty for goods that have been modified or processed by the customer or by third parties on the customer's behalf. If a defect is based on a modification or processing of the goods, Zubler shall not be obliged to remedy the defect.

7.9 In the event of justified rescission of the contract, Zubler shall be entitled to demand reasonable compensation for the benefits derived by the customer from the use of the goods in the past until rescission. An appropriate deduction from the compensation for use shall be made for the impairment of use due to the defect that led to the rescission.

## 8. Liability

8.1 Zubler's liability shall be limited to the damage typical of the contract which the customer had to expect when concluding the contract on the basis of the circumstances known to him at that time. Any further claims, in particular claims for damages including loss of profit or other financial losses, shall be excluded.

8.2 The above limitation of liability shall not apply to damage caused intentionally or at least through gross negligence by actions attributable to Zubler.

8.3 In the event of damage resulting from injury to life, limb or health, liability shall be unlimited in amount even in the event of a simple negligent breach of duty due to actions attributable to Zubler.

8.4 Liability under the Product Liability Act remains unaffected by this.

8.5 If Zubler is prevented from fulfilling its obligations due to force majeure, in particular due to the occurrence of unforeseeable, extraordinary circumstances such as war, civil unrest, acts of terrorism, confiscation, measures under the Infection Protection Act or other measures of public authority, strike, lockout and other labor disputes, despite exercising reasonable care, general shortage of raw materials and supplies, machine damage, machine breakage and other operational disruptions, natural disasters or other circumstances for which Zubler is not responsible and which can only be eliminated with unreasonable effort, even if they occur at suppliers and subcontractors, the delivery period shall be extended by a reasonable period. If delivery and performance become impossible for Zubler in such cases, Zubler shall be released from its performance obligations.

## 9. Data Protection

9.1 Zubler shall use the personal data provided by the customer (name, address, e-mail address, telephone number) confidentially and in accordance with the provisions of the Federal Data Protection Act, the Telemedia Act and the General Data Protection Regulation (GDPR). The data required for order processing will be stored and, if necessary, passed on to vicarious agents as part of the execution of the order. The legal basis for processing is Art. 6 para. 1 lit. b) GDPR. Insofar as data is not forwarded to third parties in anonymized form for the performance of the contractual services, Zubler has concluded agreements with these companies that meet the requirements of the law on commissioned data processing.

9.2 If the parties provide each other with personal data as part of the execution of a contract, this data will be transmitted and processed in accordance with the provisions of the applicable statutory provisions, in particular the GDPR and the BDSG.

9.3 Each party is the data controller with regard to the personal data it provides.

9.4 If the customer is based in a country outside the European Economic Area, a third country, which does not guarantee an adequate level of data protection in accordance with EU Regulation 2016/679, the standard contractual clauses in accordance with the Annex to European Commission Decision 2004/915/EC, including the provisions on data processing in Annex A, are the subject of the contract.

9.5 The data required for order processing and communicated by the customer will be stored and, if necessary, passed on to vicarious agents within the scope of order execution

9.6 The customer is entitled to object to Zubler's use and processing at any time.

## 10. Disposal of Electrical and Electronic Appliances and Batteries

10.1 Zubler is registered as a manufacturer with the EAR Foundation as the competent authority and submits annual quantity reports.

10.2 Customers are legally obliged to dispose of old appliances separately from unsorted municipal waste. However, old appliances can also be returned to Zubler for proper disposal.

10.3 Customers who are resellers are obliged to register in accordance with the respective national regulations applicable to them and to carry out the obligation of proper disposal themselves or to pass it on to the end customer. However, resellers and end customers may also return the old appliances to Zubler for proper disposal.

## 11. Industrial Property Rights

11.1 Zubler shall remain the owner of all copyrights and exploitation rights to the work plans, design drawings, presentations, e.g. for manufacturing processes, as well as all illustrations, drawings, records, construction and circuit diagrams and other documents, whether in written or electronic form, which were prepared by Zubler and provided to the customer in the course of the performance of the contract. They may not be made accessible to third parties or utilized by the customer without Zubler's consent. At Zubler's request, they shall be returned with the assurance that no copies have been made. The customer shall also impose this obligation on its employees. The customer shall be liable for any use of the information in its possession contrary to these terms and conditions.

11.2 Unless otherwise agreed in writing, Zubler shall not assume any liability for the delivered goods not infringing the industrial property rights of third parties. The customer shall be obliged to notify Zubler immediately if it is notified of any infringement of industrial property rights.

- 11.3 The customer shall be responsible for ensuring that any execution drawings submitted by it do not infringe the property rights of third parties. Zubler is under no obligation to the customer to check whether the submission of offers based on execution drawings sent in will infringe third-party property rights in the event of execution. If Zubler is nevertheless liable, the customer shall indemnify Zubler against any recourse claims. If third parties prohibit the manufacture and delivery of such items in particular by invoking industrial property rights, Zubler shall be entitled - without being obliged to examine the legal situation - to cease any further activity in this respect and to claim damages if the customer is at fault.
- 11.4 With regard to software included in the scope of delivery as well as updates, upgrades and extensions supplied for this purpose, the customer is granted a non-exclusive, non-transferable right to use the software supplied, including its documentation, to the extent that this is necessary for the proper operation of the respective products and services in accordance with the provisions of the product information provided and the instructions for these products.
- 11.5 The right of use applies exclusively in relation to the delivery item with which the software is supplied. The customer is not permitted to use the software in isolation or in conjunction with other devices and products.

## **12. Final Provisions**

- 12.1 Amendments and supplements to the contracts binding the parties and the annexes thereto must be made in writing to be effective.
- 12.2 The parties agree that German law shall apply to all legal relationships. The UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- 12.3 The place of jurisdiction and place of performance for the mutual rights and obligations arising from the contracts shall be Ulm.
- 12.4 Claims arising from the business relationship between the parties must be asserted within 6 (six) months after they arise.
- 12.5 The assignment of rights or transfer of obligations arising from this contract requires the prior written consent of the contractual partner.
- 12.6 Should a provision of this contract be or become invalid or unenforceable or should the parties determine that there is a loophole in the contract, this shall not affect the validity of the remaining provisions. An appropriate provision shall apply in place of the invalid or unenforceable provision or to fill the gap. In this case, the contracting parties shall agree on an effective or enforceable provision or a provision to fill the gap that comes closest to the economic sense and purpose of the contract that the parties intended when they signed it.

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