

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

## 1. Scope

- 1.1 Zubler's deliveries, services and offers shall be made exclusively on the basis of these terms and conditions. They shall also apply to all future business relations, even if they have not been expressly agreed again. The terms and conditions shall apply at the latest upon receipt of the order confirmation. Counter-confirmations of the customer with reference to his terms and conditions are hereby expressly contradicted.
- 1.2 Consumers are natural persons who conclude legal transactions without these being attributable to their commercial or independent professional activity (§ 13 BGB).
- 1.3 Entrepreneurs are natural or legal persons who, when concluding a legal transaction, act in the exercise of a commercial or independent professional activity (§ 14 BGB).

## 2. Offer

- 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 Zubler shall be entitled to the unrestricted property rights and copyrights to cost estimates, drawings and other documents provided to the customer. Documents handed over may only be made accessible to third parties with Zubler's prior written consent. Insofar as a contractual relationship between the parties does not come into being, documents provided, including copies made, shall be returned to Zubler immediately upon request.

## 3. Order execution, acceptance

- 3.1 Works executed according to the customer's specifications shall be executed by Zubler in accordance with the defined conditions.
- 3.2 The customer shall accept the work within the period set by Zubler. If this period expires fruitlessly, although the customer would have been obliged to accept the work, the work shall be deemed to have been accepted.
- 3.3 Zubler shall be entitled to charge a storage fee of 1 (one) % of the net order value for each month or part thereof from the time of notification of readiness for dispatch or to store the goods elsewhere at the customer's expense.

## 4. Delivery conditions

- 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 provided by the Purchaser, compliance with the agreed payment terms and the occurrence of the other conditions for the 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 ex works. The customer bears the risk of transport to the customer or to third parties named by the customer. If requested by the customer, transport insurance can be taken out at the customer's expense.
- 4.3 Our packaging corresponds to our experience and the usual trade practice. The customer's shipping instructions must be notified to Zubler with the order or upon conclusion of the contract. All packaging must be disposed of by the customer in accordance with the provisions of national law. The customer itself is responsible for licensing under national law.

## 5. Prices and terms of payment

- 5.1 The prices stated are net prices in Euro, 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, transport and, if applicable, insurance.
- 5.3 The prices valid on the day of the conclusion of the contract or agreed by the parties shall be invoiced. If, as a result of a circumstance for which the customer is responsible, goods cannot be delivered until more than four (4) months after conclusion of the contract, the prices valid at the time of delivery shall be payable.
- 5.4 Zubler's invoices are due immediately upon receipt and payable without deduction.
- 5.5 Zubler shall be entitled, despite provisions to the contrary, to set off payments first against older claims. Zubler shall inform the

customer about the type of set-off.

- 5.6 If costs and interest have already been incurred, Zubler shall be entitled to credit incoming payments first against the costs, then against the interest and finally against the main performance. If the customer is in default, Zubler shall be entitled to demand interest on arrears from that point in time in accordance with the statutory provisions.
- 5.7 A set-off against Zubler may only be made with claims that are legally established, undisputed or recognised 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. Damages incurred by Zubler as a result of premature unjustified termination of the contract shall be borne by the customer.
- 5.9 Insofar as Zubler provides services, the conditions of the services may be adjusted to the general price increases. The customer shall be notified of price changes in writing at least one month in advance. In the event of an increase of more than 10% for services, the customer shall be entitled to terminate service contracts to the end of a month within a period of one month after receipt of the request for 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 If the customer is an entrepreneur, Zubler shall retain title to the goods until all outstanding claims from the current business relationship have been settled in full.
- 6.3 If the customer is an entrepreneur, the reservation of title shall be replaced, insofar as it expires, e.g. through resale, combination or processing, by the new item or the claim arising therefrom. 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 reserved goods to the total value incl. VAT.
- 6.4 The customer, who is an entrepreneur, hereby assigns to Zubler the entire claim including VAT with all ancillary rights from the resale of the reserved goods - including any balance claims. The customer shall be authorised to collect the assigned claims as long as he meets his payment obligations towards Zubler. The authorisation to collect shall expire upon revocation, but at the latest upon default of payment by the customer. In this case, Zubler is hereby authorised by the customer to inform the purchasers of the goods of the assignment and to collect the claim itself.
- 6.5 After a justified withdrawal from the contract by Zubler, the customer shall return the reserved goods to Zubler. Insofar as 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 for this purpose even without the existence of a legally binding title. The costs of the transport shall be borne by the customer.

## 7. Material defects

- 7.1 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 colour, dimension or quantity specifications are not a material defect.
- 7.2 If the customer is an entrepreneur, he shall comply with his commercial obligations to examine the goods and give notice of defects. The customer shall inform Zubler immediately by email in advance of any defects in the goods.
- 7.3 If the customer is a consumer, claims for material defects shall become statute-barred within two (2) years. If the customer is an entrepreneur, claims for material defects shall become statute-barred within one year.
- 7.4 In the event of a defect for which Zubler is responsible, Zubler shall be free to choose between subsequent performance and withdrawal.
- 7.5 In the event of delivery of a replacement item, Zubler may demand the prior surrender of the defective item from the customer.
- 7.6 If Zubler chooses to remedy the defect by rectification, the customer shall grant Zubler a reasonable period of time for this purpose, which shall allow at least two attempts at rectification. If Zubler is not successful within the set period, the customer shall be entitled to reduce the remuneration or to withdraw from the contract at his discretion.

- 7.7 Waiting for deadlines and setting of deadlines by the customer shall be dispensable if this is unreasonable for the customer, in particular if Zubler finally and seriously refuses subsequent performance.
- 7.8 Subsequent performance shall not be deemed to have failed with the second attempt at rectification. Rather, Zubler shall be free to choose the number of subsequent fulfilment attempts during the grace periods set.
- 7.9 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.
- 7.10 In the event of justified withdrawal from the contract, Zubler shall be entitled to demand reasonable compensation for the use drawn by the customer from the use of the goods in the past until the rescission. An appropriate deduction from the compensation for use shall be provided for the impairment of use due to the defect that led to the withdrawal.

## 8. Liability

- 8.1 Zubler's liability shall be limited to the damage typical for the contract, which the customer had to expect at the time of conclusion of the contract due to the circumstances known to him at that time. Any further claims, in particular claims for damages including loss of profit or due to other financial losses, shall be excluded.
- 8.2 The aforementioned limitation of liability shall not apply to such damages which have been caused intentionally or at least grossly negligently 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 terms of 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.
- 8.5 Insofar as Zubler is prevented from fulfilling its obligations under the respective contract as a result of force majeure, it shall be released from its obligation to perform for the time necessary to restore the condition required for the performance of the contract.  
For the purposes of these terms and conditions, force majeure shall mean all unforeseeable events, or events which - even if they were foreseeable - are beyond Zubler's control and the effects of which on the performance of the contract cannot be prevented by Zubler's reasonable efforts.

## 9. Data protection

- 9.1 Insofar as the parties mutually provide each other with personal data within the scope of the performance of a contract, such data shall be transmitted and processed in accordance with the provisions of the DS-GVO and the BDSG.
- 9.2 Each party is a data controller in relation to the personal data it provides.
- 9.3 To the extent that the Customer is located in a country outside the European Economic Area, a third country, which does not ensure an adequate level of data protection under data protection law in accordance with EU Regulation 2016/679, the standard contractual clauses pursuant to the Annex to European Commission Decision 2004/915/EC, including the provisions on data processing in Annex A, shall be the subject matter of the contract.
- 9.4 The data required for order processing and communicated by the customer shall be stored and, if necessary, passed on to vicarious agents within the scope of order processing.
- 9.5 The customer is entitled to object to the use and processing at any time vis-à-vis Zubler.

## 10. Disposal of electrical and electronic equipment 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 All 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 All customers as resellers are obliged to register in accordance with national regulations and to pass on the obligation to dispose of the equipment properly to the end customer. However, resellers and end customers can also return the old equipment to disposal to Zubler for proper disposal.

## 11. Final provisions

- 11.1 Amendments and supplements to the contracts binding the parties and to the annexes thereto must be made in writing to be effective.
- 11.2 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.
- 11.3 The place of jurisdiction and performance for the mutual rights and obligations arising from the contracts is Ulm for merchants.
- 11.4 In the case of merchants, claims arising from the mutual business relations must be asserted within 6 (six) months after they have arisen.
- 11.5 The assignment of rights or transfer of obligations under this contract requires the prior written consent of the contracting party.
- 11.6 Should any provision of this contract be or become invalid or unenforceable or should the parties determine that there is a gap 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 a valid or enforceable provision or a provision to fill the gap that comes closest in economic terms to the meaning and purpose of the contract that the parties intended at the time of signing.

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