

1. General – Area of application – Applicable law

- 1.1 Our General Terms of Business and Contract shall apply exclusively; we shall not accept a customer's contradictory terms or terms diverging from our Terms of Business and Contract, unless we should have expressly consented in writing to their validity. Our Terms of Business and Contract shall also apply even if we execute delivery to the customer without reservation while knowing of the customer's contradictory terms or terms deviating from our Terms of Business and Contract. These General Terms of Business and Contract shall apply for all legal transactions, also future ones with us on sales of products, work performance and services, including the phase of preparing the way for a contract.
- 1.2 "Customer" in the sense of these terms of business and contract shall be every purchaser of our products/articles, work performance or services (hereinafter: "the Products") on the basis of a contractual agreement. The "Supplier" shall be the Zöller-Kipper GmbH.
- 1.3 All the agreements which are made between us and the Customer for the purpose of the execution of the said contract shall be set down in writing in the said contract. Oral subsidiary agreements shall not exist. Amendments or cancellations of a contract shall have to be made in writing. This shall also apply for agreements on the discontinuation of this agreement requiring written form.
- 1.4 We shall be entitled to process data resulting from the business relationship, also personal data, for our own purposes. The Customer is hereby informed of this pursuant to § 28 et seq. of the Data Protection Act (BDSG). Legal transactions by means of remote data transmission shall require a special agreement.
- 1.5 Our Terms of Business and Contract shall apply for transactions with business undertakings, merchants or public-sector contractors.
- 1.6 The following shall be applicable for the master contract concluded between us and the Customer or the individual contracts concluded, in the following sequence:
 1. the provisions of the contract concluded,
 2. the General Terms of Business and Contract of Zöller-Kipper GmbH,
 3. the provisions of the German Commercial Code (HGB) on a commercial transaction,
 4. the provisions of the HGB on a mercantile sale if it is a matter of a contract of sale,
 5. the supplementary provisions of the German Civil Code (BGB) on a contract of manufacture if the production of a result shall be owed,
 6. the supplementary provisions of the General Part of the BGB as well as of the Law of Obligations.
- 1.7 All the legal relations between us and the Customer shall be subject to the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG). In so far as the CISG shall not contain any provision, German Law shall apply to the exclusion of international private law. If claims shall be asserted against us abroad, we can assert claims against the Customer at the legal venue of the main claim.

2. Offers, order, duties to co-operate

- 2.1 Our offer shall be without obligation until our final acknowledgement of the order.
- 2.2 The Customer's order shall be a binding offer. We shall be entitled to accept this offer within two weeks by sending an acknowledgement of the order.
- 2.3 We shall reserve the right of ownership and copyrights to illustrations, drawings, calculations and other documents. This shall also apply for such written documents that are designated as being "confidential". The Customer shall require our express approval in writing before passing them on to third parties.
- 2.4 Particulars in descriptions, documents or illustrations shall not be binding, in so far as nothing to the contrary shall have been agreed in writing, in the case of lifters, spare parts and waste collection vehicles. They shall not contain any binding declarations and, in particular, shall not substantiate the assumption of warranted characteristics, other independent assurances (guarantee) or concrete instructions for action.
- 2.5 Changes in design or shape, divergences in colour tone as well as changes in the scope of supply shall remain reserved, provided the subject matter of the sale shall not be considerably changed and the changes shall be reasonable for the Customer.
- 2.6 Import or export licences, as well as other permits which shall be required for the export of the article of sale, are to be furnished by the Customer, provided nothing to the contrary shall have been agreed. Furthermore, in the case of export transactions, the confirmation of the letters of credit shall be required.

3. Prices – Terms of payment

- 3.1 In the absence of any special agreement, the prices shall apply "ex works" including loading in the works. Transport, packaging, insurance costs, customs duties and other charges, that are levied on account of regulations in the country of destination, shall be borne by the Customer. The statutory value-added tax is not included in our prices; it shall be shown separately in the invoice in the statutory amount on the day of invoicing.
- 3.2 Changes in price shall only be permissible if more than 6 months shall lie between the conclusion of the contract and the agreed delivery date. The price valid on the day of the delivery in each case can then be entered. In the case of deliveries within 6 months after the conclusion of the contract the price valid or agreed on the day of concluding the contract shall apply.
- 3.3 Payment shall have to be made free of loss without any deduction within 14 days after the date of the invoice.
- 3.4 The purchase price and prices for additional services shall be payable immediately in cash without any deduction on delivery of the object of the sale (notification of readiness for delivery); at the latest, however, 14 days after receipt in accordance with the invoice (see above, clause 3.3).
- 3.5 The acceptance of bills of change and cheques shall take place only after special agreement and only for the sake of payment. The Customer shall bear the costs of discounting and collection.
- 3.6 The Customer's set-off with counterclaims shall be excluded, provided the counterclaim shall not be undisputed or shall have been legally finally determined and result from the same legal transaction. The Customer shall be empowered to exercise a right of retention in so far as his counterclaim shall be based on the same contractual relationship. The Customer shall not be entitled to a right of retention on account of part performances in accordance with § 320 Par.2 BGB. The assignment or pledging of claims existing against us shall require our consent in writing.

- 3.7 In the case of the Customer's undue delay in payment, interest for late payment of 5% p.a. above the basic interest rate of the European Central Bank in force on the due date shall accrue. The Customer shall be reserved the right to demonstrate that no or only a little damage has occurred. We shall be reserved the right to demonstrate and assert a further-going damage.
- 3.8 If an instalment agreement was made, this agreement can be terminated and the payment of the residual debt demanded if the Customer shall be wholly or partially in default with at least two instalment payments in succession, and the amount in arrears shall reach at least 10% of the instalment payment price. Beforehand, a two-week deadline is to be set for the Customer with the statement that in the case of non-payment within the deadline, the entire remaining total will be demanded. Instead of demanding payment of the residual debt, the Customer can be set a two-week deadline for payment and, in this connection, it can be declared that in the case of non-payment within the additional period of time, the contract will be cancelled. After expiry of this deadline, the Supplier shall be entitled to withdraw; the claim for performance shall be excluded. In addition to this, the entire residual debt shall also fall due if the Customer suspends its payments, or if composition or bankruptcy proceedings in its assets shall have been applied for.
- 3.9 Part invoices shall be issued for part deliveries. The Supplier shall be entitled to demand a down payment up to the amount of 30 % of the sum total of the invoice. On the Supplier's first request, the Customer shall have to provide a bank guarantee amounting to 90 % of the purchase price not yet paid.

4. Delivery – Scope of the duty to deliver

- 4.1 The Supplier shall be obliged to draw the individual assembly steps. At the Customer's request, it shall be obliged to hand over the plans against an assurance that the Customer will not use these plans unauthorised to the Supplier's disadvantage.
- On concluding a contract of sale, the Supplier shall owe the Customer a fungible good. The Supplier's acknowledgement of the order in writing shall be decisive for the scope of the delivery and the content of the contract of sale.
- 4.3 If the Supplier shall owe the manufacture of a product on the Customer's behalf (contract of manufacture), then it shall owe the work promised in the acknowledgement of the order. In the case of an assembly performance owed for a non-specified good, this shall apply only for the mounting performance.
- 4.4 Partial deliveries shall be permissible to a reasonable extent or through an agreement in writing by the contracting parties.

5. Time of delivery, undue delay in delivery and acceptance

- 5.1 Only the times of delivery confirmed by us in writing shall be binding. They shall be binding on us only if the Customer shall have given all the particulars of the order and taken part in co-operation negotiations. Transactions for a fixed date shall require a separate agreement.
- 5.2 Times of delivery shall begin with the dispatch of the acknowledgement of the order, however, not before the Customer's fulfilment in good time and in due form of his obligation to co-operate in accordance with clause 2.6, thus, in particular not before the furnishing of the documents, approvals and releases to be obtained by the Customer, as well as before receipt of an agreed down payment, as well as not before delivery of the objects onto which the parts ordered are to be mounted.
- 5.3 The time of delivery shall be met if the item to be supplied shall have left the works or the supply depot, or its readiness for dispatch shall have been notified by the time of its expiry. This shall not apply if an acceptance shall have been contractually stipulated, or if an obligation to mount shall have been agreed. For the case of a contract for production or a purchase with the obligation to mount, the time of delivery shall be met if the readiness for acceptance shall be notified in writing to the Customer by the time of the expiry of the agreed period.
- 5.4 In the case of force majeure or other unforeseeable and exceptional circumstances arising through no fault of ours (operating breakdown, strike, lockout, official interventions, energy supply difficulties, delayed or faulty supply of raw materials, semi-finished or finished products needed for the manufacture of the object for supply, etc.), if we shall thus be impeded in the fulfilment in good time of our obligation, the time of delivery shall be prolonged by the duration of the impediment and a reasonable starting time. This shall also apply if these circumstances occur at the supplier's premises. In important cases, the beginning and end of such circumstances shall be notified by us to the Customer as soon as possible.

If the delivery or performance shall become impossible or unreasonable through the said circumstances, then we shall be free of the obligation to supply. If the time of delivery shall be prolonged or we shall become free of the obligation to supply, the Customer shall not be able to deduce any claims for damages from this. In so far as we shall become free of the obligation to supply, we shall return any advance performances possibly rendered by the Customer.

- 5.5 The Supplier can set the Customer a further reasonable deadline for the acceptance and, in the event of the unsuccessful expiry of this deadline, can dispose of the object ordered elsewhere. However, the disposal elsewhere shall require our announcement thereof in writing. If the Customer shall have already made payments, in this case, we shall be obliged to refund the payments received to the buyer, deducting the damage caused to him by delay.
- The statutory provisions on the consequences of delay in acceptance shall remain unaffected.
- 5.6 If nothing to the contrary is agreed, the Customer shall have to have acceptance inspections under the contract for production carried out on our premises at its expense. If the Customer shall fail to make this acceptance, the products shall be regarded as accepted pursuant to the terms on leaving our works.
- 5.7 If the dispatch shall be delayed at the Customer's request, then – beginning 1 month after notification of the readiness for dispatch – we shall charge him with the costs incurred through the storage. However, after setting a reasonable period and allowing it to expire, and after an appropriate prior announcement, we shall be entitled to dispose of the object of the delivery elsewhere, and to supply the Customer with an appropriately extended deadline.

6. Passing of risk, benefit and charges

- 6.1 On principle, with the delivery of the thing sold or parts thereof, the risk, benefit and charges shall pass to the Buyer. However, if the Supplier shall dispatch the object at the Customer's request, the risk, benefit and charges shall pass to the Customer with the handing over of the goods to the consignee or carrier. In cases in which acceptance is envisaged, the risk, benefit and charges shall pass over with the acceptance.
- 6.2 If the handing over of the object or the dispatch shall be delayed as a result of circumstances for which the Customer is responsible, the risk shall pass to the Customer on receipt of the notification of the readiness for dispatch, at the latest, however, after the expiry of 2 working days after sending the notification.

In those cases in which an acceptance is envisaged, the risk shall pass to the Customer 5 working days at the latest after the sending of the notification of readiness for acceptance, if the acceptance shall not actually be carried out within the period of 5 days. At the Customer's request, the consignment is to be insured at its costs against theft and damage by breakage, transport, fire and water. This can be extended to other insurable risks.

7. Reservation of ownership

- 7.1 We shall reserve the right of ownership of the products supplied until the receipt of all payments resulting from the business relationship with the Customer. He shall not be entitled to cede products belonging to us to third parties as security. In the case of behaviour in breach of the contract, in particular in the case of undue delay in payment, after setting a reasonable deadline, we shall be entitled to take the product back. Provided we do not expressly declare something to the contrary, there shall not be any withdrawal from the contract as a result of the taking back of the product. After taking back the object of sale, we shall be entitled to turn it to account; the realisation proceeds shall be set off against the Customer's accounts payable – minus reasonable realisation costs.
- 7.2 The Customer shall be obliged to treat the object of sale carefully; in particular he shall have to insure the same at his own expense adequately at its original value against damage from fire, water and theft. Claims for compensation against the insurer shall be assigned to us. We accept the assignment. The Customer shall instruct the insurer to pay benefits only to us. In so far as maintenance and inspection works shall be required, the Customer must carry out the same in good time at his own expense.
- 7.3 In the case of levies of execution or other interventions by third parties in our products, the Customer shall have to notify us of this in writing forthwith so that we can file a suit pursuant to § 771 of the German Civil Procedure Code (ZPO). He shall have to take all measures that are necessary set aside and ward off such seizures and claims, and to support us in the safeguarding of our rights in every manner, also in our name. In so far as the third party shall not be in the position to reimburse the court and out-of-court costs of a suit to us pursuant to § 771 ZPO, the Customer shall be liable for the irretrievable amount incurred by us.
- 7.4 The Customer shall be entitled to process and/or resell our products within the framework of an orderly course of business; however, he shall assign, already now, all claims against his customer or third parties in the amount of the final invoice total (including VAT) to us, that shall accrue to him through the resale, namely regardless of whether the goods were resold without or after machining. The Customer shall remain authorised to collect this account receivable even after assignment. Our power to collect this account receivable ourselves shall remain unaffected by this. However, we undertake not to collect this account receivable so long as the Customer shall meet his obligations resulting from the proceeds received, shall not make default, and in particular so long as no application shall have been filed to open bankruptcy, composition or insolvency proceedings, or there is a stoppage of payments. However, if this is the case, then we can request that the Customer shall disclose to us the accounts receivable assigned and their debtors, give us all the particulars necessary for their collection, hand over the accompanying documents, and notify the debtors (third parties) of the assignment. All claims resulting from bills of exchange that are drawn on accounts receivable from the resale of our property (customer's bill) shall also be hereby assigned. We can request the handing over of the bills of exchange and endorsement by the Customer at any time. We shall be entitled at any time to announce to third parties the assignment of the Customer's claims to us. Any assignments shall hereby be accepted.
- 7.5 The processing or reshaping of the object of sale by the Customer shall always be carried out for us. If the object of sale shall be processed with other objects not belonging to us, then we hereby acquire the joint ownership of the new object in the ratio of the value of the object of sale (invoice final amount, including VAT) to the other objects processed at the time of the processing. Apart from this, the same shall apply for the object created through the machining as for the object of sale supplied under reservation.
- 7.6 We undertake to release the securities, to which we are entitled, at the Customer's request in so far as the realisable value of our securities shall exceed the accounts receivable to be secured by more than 10%; the choice of the securities to be released shall lie with us.
- 8. Warranty, liability for defects and claims for compensation and reimbursement for expenses**
- 8.1 We shall make the deliveries promised in accordance with the contractual agreement.
- 8.2 In so far as our delivery shall show a defect of quality or legal imperfection in title (hereinafter Fault) within the statutory period of limitation, the cause of which was already present at the time of the passing of risk, the Customer shall have a right, at our option, to subsequent fulfilment by remedying the fault or making replacement. We shall bear the expenses necessary for this, such as e.g. wage, material, transport and travelling costs alone, provided these expenses are not increased by the fact that an article supplied was subsequently transferred to a place other than the Customer's head office, unless this transfer shall be in accordance with the intended use of the article supplied. Replaced parts shall become our property and are to be returned to us.
- 8.3 If the subsequent fulfilment shall fail, then the Customer shall be entitled, at his option – without prejudice to any possible claims for compensation and reimbursement for expenses pursuant to clauses 8.9 to 8.14 – to reduce the remuneration or – if our breach of duty is considerable – to withdraw from the contract.
- 8.4 The prerequisite for any warranty claim shall be that, in particular
- a) none of the following circumstances be present:
- deviations in dimensions and process tolerances within specifications, data sheets, etc.,
 - normal ageing, wear or tear phenomena which are shown in particular by the respective technical data sheets,
 - unsuitable, inappropriate or careless storage, handling, use, application or maintenance,
 - use of unsuitable operating materials,
 - own processing or remedying of a defect by the Customer or third parties,
 - faulty installation or commissioning by the Customer or third parties,
 - natural wear, unsuitable replacement materials, chemical, physical, electrochemical, electrical or similar influences,
 - incompleteness or incorrectness of the order details and the documents handed over to us for this.
- b) the Customer has complied with his incidental obligations required by law to examine and notify defects in due form. In so far, faults are to be notified and proved in writing with details of their nature and extent within 10 days after receipt of the object supplied at its ultimate destination or, if the same were not discernible in the course of an examination in due form, within 10 days after their discovery.
- 8.5 After reaching an understanding with us, the Customer shall have to give us the necessary time and opportunity in order to carry out all the subsequent improvements and replacements that appear necessary to us at our discretion. Failing this, we shall be released from the damaging consequences which would exist on account of non-fulfilment. We shall also be entitled to make subsequent improvement or replacement in the case of considerable defects of quality.
- 8.6 The warranty period shall be 24 months. This shall not apply in so far as the same shall be based on a deliberate conduct imputable to us and in so far as the law pursuant to §§ 438 I No.2, 479 I, 634 a I No.2 BGB compulsorily stipulates longer periods. The statutory period of limitation shall begin with the delivery of the products, provided nothing to the contrary is provided here below or by law.
- 8.7 In particular, if we should be exposed to third parties' claims in accordance with domestic or foreign law that result from products supplied by us, at all events, the Customer shall have to indemnify us against all claims and the costs of the legal defence against such claims arising from product liability. This shall also apply for every right of recourse against us, regardless of who conducts it,

asserts it or acquires it. Claims for compensation in the case of faultiness and causation of damage of the products supplied by us can also only be asserted against us in the case of joint indebtedness with the evidence that we have to answer for the faultiness. The Customer shall have to place all the information required for the prosecution of an action at our disposal, also such from his sectors.

- 8.8 The Customer shall be obliged to keep himself adequately insured against cases of liability, in particular those resulting from liability dependent on and independent of fault. He shall have to notify his insurer of the obligations resulting from these terms.
- 8.9 According to the statutory provisions, we shall be liable in so far as the Customer shall assert claims for compensation or reimbursement of expenses (hereinafter Claims for Compensation) that are based on intent or gross negligence – including any intent or gross negligence by our representatives or vicarious agents. Furthermore, in accordance with the statutory provisions, we shall be liable if we shall have culpably infringed a fundamental contractual obligation, as well as in cases of injury to life, limb or health, and in so far as we shall have assumed guarantees.
- 8.10 The compensation for infringement of a fundamental contractual obligation shall be limited to the foreseeable, typically occurring damage, provided it shall not be a case of intent or gross negligence, and provided there shall be no liability for injury to life, limb or health, or arising from guarantees that have been assumed. In so far, these claims for compensation shall become statute barred in one year.
- 8.11 Apart from this, liability for compensation shall be excluded – irrespective of the legal nature of the claim being asserted; in so far, we shall in particular not be liable for damage which has not occurred on the object supplied itself, such as e.g. loss of production, losses of use (consequential harm caused by a defect) or loss of profits.
The compulsory provisions of the product liability law shall remain unaffected.
- 8.13 The Customer's claims for compensation for expenses are to be proved and shall be limited to his necessary expenses.
- 8.14 Deliveries of used goods shall be made as inspected excluding any warranty. This shall not apply for keeping deliberately silent or in the case of gross negligence. In so far, these claims shall become statute barred in one year. Clause 8.6 subclause 3 shall apply accordingly.
- 8.15 In so far as our liability shall be excluded or limited, this shall also apply for the personal liability of our salaried employees, workers, staff, representatives and vicarious agents.

9. Special regulation in the case of purchase with mounting obligation

- 9.1 These General Terms of Business and Contract shall also apply for the case that the object purchased shall be mounted on the Customer's objects in accordance with the following provisions:
- 9.2 The Customer affirms that he is the owner of the thing onto which the object supplied is to be mounted or that he is not impeded either legally or in fact from bringing about a connection between the object supplied and the thing in his possession.
- 9.3 The Customer shall have an increased obligation to co-operate. He shall have to place all the documents, plans and drawings at the Supplier's disposal and to furnish information, and impart comprehensive knowledge to him of the nature and special features of the object so that he will put in a position to render an orderly mounting service.

10. Maintenance of secrecy, place of performance, legal venue and applicable law

- 10.1 The Customer shall be obliged to treat knowledge and information resulting from the business relationship with us that is not evident or has not become permissibly evident confidentially. This shall apply in particular also for knowledge about our know-how and our manufacturing methods and procedures if he shall audit us or include us in the joint development of his products. The Customer shall be obliged to impose this obligation as his own on third parties included by him. The Customer shall be liable to us for any damage resulting from the infringement of this obligation excluding the continuation context. The obligation to safeguard the confidentiality shall be regarded as an independent legal obligation over and beyond the termination of the business relationship with us.
- 10.2 The place of performance for our services and the Customer's services shall be Mainz, if the Customer is a fully qualified merchant or a legal person under public law or a public law special fund. The legal venue for all disputes shall be Mainz. We can sue the Customer at his general legal venue.

11. Concluding provisions

- 11.1 If orders and correspondence shall not be conducted in German, the documents in German shall be authoritative for determining the content of the contract.
- 11.2 If one or more of the provisions of these terms be or become ineffective, the efficacy of the other provisions shall not be affected by this. The Customer shall be obliged to co-operate in agreeing an effective provision that comes closest legally and economically to the original one.
- 11.3 If the contract should show a gap in the provisions that cannot be closed either by the General Terms of Business and Contract or by statutory provisions, then the contract is to be supplemented by a provision which the contracting parties would have chosen on the basis of what was economically wanted, if they had been aware of the gap in the contract.
- 11.4 The same shall apply in the case of the uncertainty or ambiguity of a provision. In this case, the uncertain or ambiguous provision is to be interpreted in such a manner that the economic purpose being pursued with the contract shall be achieved.