

# **General Terms and Conditions of Zahnen Technik GmbH**

## **A. General provisions**

### **1 1. General, scope of application**

- 1.1 These General Terms and Conditions (GTC) apply to all our business relationships with our customers ("Customer"). The GTC are directed exclusively to entrepreneurs (as defined in Section 14 of the German Code Civil (BGB), a legal entity under public law or a special fund under public law.
- 1.2 The GTC apply to contracts for the sale and/or rental and/or other delivery of movable goods ("Products"). Unless otherwise agreed, the GTC in the version valid at the time of the customer's order or in any case in the version last communicated to him in text form shall also apply as a framework agreement for similar future contracts, without us having to refer to them again in each individual case.
- 1.3 Our General Terms and Conditions apply exclusively. Deviating, conflicting or supplementary terms and conditions of the customer shall only become part of the contract if and to the extent that we have expressly agreed to their validity. This requirement of consent shall apply in any case, for example even if the customer refers to its own terms and conditions in the order and we do not expressly object to them.
- 1.4 Individual agreements (e.g. framework supply agreements, quality assurance agreements) and information in our order confirmation shall take precedence over the GTC. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms® issued by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.
- 1.5 Legally relevant declarations and notifications by the customer in relation to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in writing. Written form within the meaning of these GTC includes written and text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declaring party, shall remain unaffected.
- 1.6 References to the validity of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTC. In cases of doubt, the German legal meaning shall prevail.

### **2 Conclusion of contract**

- 2.1 Our offers are subject to change and non-binding. This shall also apply if we have provided the customer with catalogs, technical documentation (e.g. drawings, plans, calculations, calculations, references to DIN standards), other product descriptions or documents - also in electronic form - to which we reserve ownership rights and copyrights.
- 2.2 The order of the products by the customer shall be deemed a binding contractual offer. Unless otherwise stated in the order, we are entitled to accept this contractual offer within 2 weeks of its receipt by us.

- 2.3 Acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of the products to the customer.
- 2.4 If the contract is concluded in electronic business transactions, the customer waives the fulfillment of the information obligations pursuant to Section 312 i para. 2 sentence 2 BGB in accordance with Section 312 i para. 1 no. 1 - 3 BGB.

### **3 Choice of law and place of jurisdiction**

- 3.1 These GTC and the contractual relationship between us and the customer shall be governed by the law of the Federal Republic of Germany under exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 3.2 If the customer is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in 54687 Arzfeld/Germany. The same applies if the customer is an entrepreneur within the meaning of Section 14 BGB. However, in all cases we shall also be entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTC or an overriding individual agreement or at the customer's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

### **4 Severability clause**

Should any provision of these GTC be or become invalid or unenforceable, the remainder of the contract shall remain valid. Insofar as the provisions have not become part of the contract or are invalid, the content shall be governed by the statutory provisions.

## **B. Special provisions for purchase**

### **1 General, scope of application**

The provisions in Section B of these GTC apply to the sale of the products. In the event of contradictions to the provisions in Section A, the provisions in Section B shall take precedence.

### **2 Delivery period and delay in delivery**

- 2.1 The delivery period shall be agreed individually or specified by us upon acceptance of the order. If this is not the case, the delivery period is approx. 3 months from conclusion of the contract.
- 2.2 If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the customer of this immediately and at the same time inform the customer of the expected new delivery deadline. If the service is also not available within the new delivery period, we are entitled to withdraw from the contract in whole or in part; we will immediately reimburse any consideration already provided by the customer. Non-availability of the service exists, for example, in the event of late delivery by our suppliers, if we have concluded a congruent hedging transaction, in

the event of other disruptions in the supply chain, for example due to force majeure or if we are not obliged to procure in individual cases.

- 2.3 The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder from the customer is required. If we are in default of delivery, the customer may demand lump-sum compensation for the damage caused by the delay. The liquidated damages shall amount to 0.5% of the net price (delivery value) for each completed calendar week of delay, but shall not exceed a total of 5% of the delivery value of the products delivered late. We reserve the right to prove that the customer has suffered no damage at all or only significantly less damage than the above lump sum.
- 2.4 The rights of the customer pursuant to Section B 6 of these GTC and our statutory rights, in particular 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.

### **3 Delivery, transfer of risk, acceptance, default of acceptance**

- 3.1 Delivery shall be ex warehouse, which is also the place of performance for the delivery and any subsequent performance. At the customer's request and expense, the product will be shipped to another destination (sales shipment). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.
- 3.2 The risk of accidental loss and accidental deterioration of the products shall pass to the customer at the latest upon handover. In the case of sale by dispatch, however, the risk of accidental loss and accidental deterioration of the products as well as the risk of delay shall already pass upon delivery of the products to the forwarding agent, the carrier or the person or institution otherwise designated to carry out the shipment. If the customer is in default of acceptance, this shall be deemed equivalent to handover.
- 3.3 If the customer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the customer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). We shall charge a lump-sum compensation of EUR 100 per calendar day for this, beginning with the delivery deadline or - in the absence of a delivery deadline - with the notification that the products are ready for dispatch.
- 3.4 Proof of higher damages and our statutory claims (in particular reimbursement of additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump sum shall be offset against further monetary claims. The customer shall be entitled to prove that we have suffered no loss at all or only a significantly lower loss than the above lump sum.

### **4 Prices and terms of payment**

- 4.1 Unless otherwise agreed in individual cases, our current prices at the time of conclusion of the contract shall apply, ex warehouse, plus statutory VAT, if applicable.
- 4.2 In the case of sale to destination (Section B 4.1), the customer shall bear the transportation costs ex warehouse and the costs of any transportation insurance requested by the

customer. Any customs duties, fees, taxes and other public charges shall be borne by the customer.

- 4.3 The purchase price is due and payable within 14 days of invoicing and delivery or acceptance of the products. However, we are 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. We shall declare a corresponding reservation at the latest with the order confirmation.
- 4.4 The customer shall be in default upon expiry of the above payment deadline. During the period of default, interest shall be charged on the purchase price at the applicable statutory default interest rate. We reserve the right to claim further damages caused by default. Our claim to commercial maturity interest (Section 353 HGB) against merchants remains unaffected.
- 4.5 The customer shall only be entitled to rights of set-off or retention to the extent that his claim has been legally established or is undisputed. In the event of defects in the delivery, the customer's counter-rights shall remain unaffected, in particular in accordance with Section B 6 of these GTC.
- 4.6 If it becomes apparent after conclusion of the contract (e.g. through an application for the opening of insolvency proceedings) that our claim to the purchase price is jeopardized by the customer's inability to pay, we are entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (Section 321 BGB).

## **5 Retention of title**

- 5.1 We reserve title to the products sold until full payment of all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims).
- 5.2 The products 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 must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties have access to the products belonging to us (e.g. seizures).
- 5.3 If the customer acts in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the products on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; rather, we are entitled to demand only the return of the products and reserve the right to withdraw from the contract. If the customer does not pay the purchase price due, we may only assert these rights if we have previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
- 5.4 The customer is authorized to resell and/or process the products subject to retention of title in the ordinary course of business until revoked in accordance with (c) below. In this case, the following provisions shall apply in addition.
  - (a) The retention of title shall extend to the full value of the products resulting from the processing, mixing or combining of our products, whereby we shall be deemed to be the manufacturer. If, in the event of processing, mixing or combining with

products of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined products. In all other respects, the same shall apply to the resulting product as to the products delivered under retention of title.

- (b) The customer hereby assigns to us as security any claims against third parties arising from the resale of the products or the product in total or in the amount of our possible co-ownership share in accordance with the above paragraph. We accept the assignment. The obligations of the customer stated in Section B 5.2 shall also apply with regard to the assigned claims.
- (c) The customer shall remain authorized to collect the claim in addition to us. We undertake not to collect the claim as long as the customer meets his payment obligations to us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right in accordance with Section B 5.3. If this is the case, however, we may demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. In this case, we shall also be entitled to revoke the customer's authorization to resell and process the products subject to retention of title.
- (d) If the realizable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the customer's request.

## **6 Claims for defects by the customer**

- 6.1 The statutory provisions shall apply to the customer's rights in the event of material defects and defects of title (including incorrect and short delivery as well as improper assembly/installation or defective instructions), unless otherwise specified below.
- 6.2 The basis of our liability for defects is above all the agreement reached on the quality and intended use of the products (including accessories and instructions). All product descriptions and manufacturer's specifications which are the subject of the individual contract or products made public by us (in particular in catalogs or on our Internet homepage) at the time of conclusion of the contract shall be deemed to be quality agreements in this sense. Insofar as the quality has not been agreed, it shall be assessed in accordance with the statutory provisions whether a defect exists or not (Section 434 (3) BGB). Public statements made by the manufacturer or on its behalf, in particular in advertising or on the label of the products, shall take precedence over statements made by other third parties.
- 6.3 In the case of products with digital elements or other digital content, we shall only be obliged to provide and, if applicable, update the digital content if this is expressly stated in a quality agreement in accordance with Section B 6.2.
- 6.4 We are generally not liable for defects that the customer is aware of or is grossly negligent in not being aware of when the contract is concluded (Section 442 BGB). Furthermore, the customer's claims for defects presuppose that he has complied with his statutory inspection and notification obligations (Sections 377, 381 HGB). If a defect becomes apparent during delivery, inspection or at any later point in time, we must be notified of this in writing without delay. In any case, obvious defects must be reported in writing within 1 week of delivery and defects not recognizable during the inspection within the same period of time from discovery. If the customer fails to carry out the proper inspection and/or report defects, our

liability for the defect not reported or not reported on time or not reported properly shall be excluded in accordance with the statutory provisions . In the case of products intended for assembly, mounting or installation, this shall also apply if the defect only became apparent after the corresponding processing as a result of a breach of one of these obligations; in this case, the customer shall in particular not be entitled to claim compensation for the corresponding costs ("removal and installation costs").

- 6.5 If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery). If the type of subsequent performance chosen by us is unreasonable for the customer in individual cases, the customer may reject it. Our right to refuse subsequent performance under the statutory conditions remains unaffected.
- 6.6 We are entitled to make the subsequent performance owed dependent on the customer paying the purchase price due. However, the customer is entitled to retain a reasonable portion of the purchase price in relation to the defect.
- 6.7 The customer must give us the time and opportunity required for the subsequent performance owed, in particular to hand over the defective products for inspection purposes. In the event of a replacement delivery, the customer shall return the defective item to us at our request in accordance with the statutory provisions; however, the customer shall not be entitled to return the item. Subsequent performance shall not include the dismantling, removal or disassembly of the defective item or the installation, attachment or assembly of a defect-free item if we were not originally obliged to perform these services; the customer's claims for reimbursement of corresponding costs ("dismantling and assembly costs") shall remain unaffected.
- 6.8 We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs and, if applicable, dismantling and installation costs, in accordance with the statutory provisions and these GTC, if a defect actually exists. Otherwise, we may demand compensation from the customer for the costs incurred as a result of the unjustified request to remedy the defect if the customer knew or could have recognized that there was in fact no defect.
- 6.9 In urgent cases, e.g. if operational safety is at risk or to prevent disproportionate damage, the customer has the right to remedy the defect himself and to demand compensation from us for the expenses objectively necessary for this. We must be notified immediately, if possible in advance, of any such self-remedy. The right of self-remedy shall not apply if we would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.
- 6.10 If a reasonable deadline to be set by the customer for subsequent performance has expired without success or is dispensable in accordance with the statutory provisions, the customer may withdraw from the purchase contract or reduce the purchase price in accordance with the statutory provisions. In the case of an insignificant defect, however, there is no right of withdrawal.
- 6.11 Claims by the customer for reimbursement of expenses pursuant to Section 445a (1) BGB are excluded unless the last contract in the supply chain is a consumer goods purchase (Sections 478, 474 BGB) or a consumer contract for the provision of digital products (Sections 445c sentence 2, 327 (5), 327u BGB). The customer's claims for damages or reimbursement of futile expenses (Section 284 BGB) shall only exist in accordance with the following Sections B 7 and B 8, even if the products are defective

## **7 Other liability**

- 7.1 Unless otherwise stated in these GTC including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- 7.2 We shall be liable for damages - irrespective of the legal grounds - within the scope of fault-based liability in cases of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. care in our own affairs; insignificant breach of duty), for
- (a) for damages resulting from injury to life, limb or health,
  - (b) for damages arising from the breach of an essential contractual obligation (an obligation whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner regularly relies and may rely); in this case, however, our liability is limited to compensation for foreseeable, typically occurring damages.
- 7.3 The limitations of liability resulting from Section B 7.2 shall also apply to third parties and in the event of breaches of duty by persons (including in their favor) whose fault we are responsible for in accordance with statutory provisions. They shall not apply if a defect has been fraudulently concealed or a guarantee has been given for the quality of the products and for claims of the customer under the Product Liability Act.
- 7.4 The customer may only withdraw from or terminate the contract due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. Otherwise, the statutory requirements and legal consequences shall apply.

## **8 Statute of limitations**

- 8.1 Notwithstanding Section 438 Para. 1 No. 3 BGB, the general limitation period for claims arising from material defects and defects of title is one year from delivery.
- 8.2 The above limitation period of the law on sales shall also apply to contractual and non-contractual claims for damages of the customer which are based on a defect of the products, unless the application of the regular statutory limitation period (Sections 195, 199 BGB) would lead to a shorter limitation period in individual cases. The customer's claims for damages pursuant to Section B 7. 2 sentence 1 and sentence 2 (a) and pursuant to the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.

## **C. Special provisions for rental of products**

### **1 General, scope of application**

The provisions in Section C of these GTC apply to the rental of the products. In the event of contradictions to the provisions in Section A, the provisions in Section C shall take precedence.

## **2 Rental object**

We undertake to provide the customer with the product described in our offer for hire.

## **3 Rent**

- 3.1 The amount of the rental payments and the due date of the payments are set out in the offer. All payments are subject to statutory value added tax, if applicable.
- 3.2 If the customer is in arrears with at least one rental payment by more than ten calendar days, we are entitled, after an unsuccessful reminder, to retrieve the rental item at the customer's expense without having to give notice of termination without notice.

## **4 Rental period**

- 4.1 Details of the start and end of the tenancy can be found in our offer.
- 4.2 Delivery of the rental item with accessories and operating instructions shall take place at the latest at the beginning of the rental period in accordance with the conditions set out in sections B 3 and B 4.2 of these GTC, which shall apply accordingly to the rental.

## **5 Duty to inspect, defects**

- 5.1 The customer is obliged to inspect the rental item immediately after delivery and to report any recognizable defects in writing without delay. If the customer fails to do so, he loses the right to claim obvious defects at a later date.
- 5.2 We undertake to rectify any defects reported by the customer in good time upon delivery. If a reasonable grace period set by the customer for this purpose expires and we are responsible for this, the customer has the right to withdraw from the contract
- 5.3 If a defect occurs at the beginning or during the rental period that impairs the functionality of the rental item, the rental period shall be extended by the duration of the malfunction, provided that the customer has reported the defect immediately. The customer is not obliged to make rental payments for the duration of the extension.

## **6 Obligations of the customer**

- 6.1 The customer is obliged to treat the rental item with care. In the event of defects, the customer must immediately give us the opportunity to carry out the repairs ourselves or have them carried out by a third party.
- 6.2 The customer may not make any changes to the rental object.
- 6.3 The customer is prohibited from granting rights to the rental item to a third party. In particular, subletting of the rental item is not permitted.
- 6.4 If the rented item is seized or confiscated from the customer, the customer is obliged to inform us immediately in writing. In addition, the customer must inform the third party of our ownership of the rental item.



## **7 Maintenance**

We shall bear the costs for the maintenance of the rental item, unless these are caused by improper use or excessive strain on the part of the customer. All other maintenance costs shall be borne by the customer during the rental period. However, we are solely responsible for carrying out the maintenance work.

## **8 Liability**

Claims for damages, in particular for damage not directly caused to the rental item, can only be asserted by the customer if we are accused of gross negligence or if we have culpably violated essential contractual obligations, insofar as this jeopardizes the purpose of the contract. In this case, liability shall be limited to the foreseeable damage typical of the contract. Any further liability on our part is excluded.

## **9 Right of inspection**

We reserve the right to inspect the rental item ourselves on site or have it inspected by an authorized representative after prior consultation with the customer. The customer is obliged to provide us with support within the scope of his possibilities.

## **10 Passing of risk, insurance**

10.1 At our request, the customer is obliged to cover the following risks in connection with damage to or destruction of the rental item by taking out appropriate comprehensive insurance and to provide us with proof of such insurance upon request:

- (a) Breach of the duty of care by the customer,
- (b) Damage caused by fire or water,
- (c) transportation risks when delivering and returning the rental item to and from the place of use, unless the carrier is responsible for these risks,
- (d) Damage due to force majeure, insofar as this is insurable.

10.2 The customer hereby assigns to us any claims arising from the comprehensive insurance in accordance with Section C 10.1. We accept the assignment.

10.3 If damage occurs, the customer is obliged to inform us immediately in writing of the nature of the damage and its occurrence.

10.4 Any claims for damages by the customer against third parties arising from the damaging event are hereby assigned to us, insofar as we are also entitled to these claims against the customer. We accept the assignment.

## **11 Return of rented products**

11.1 The customer is obliged to return the rental item - depending on the provisions in the offer - in perfect condition to our place of business. If the item is not returned in perfect condition, we shall be entitled to have our own personnel carry out the necessary work to restore the item to its proper condition and to invoice the customer for the costs incurred. The rented item shall be deemed not to have been returned until it has been restored to a proper condition.

This shall also apply if the rental item is returned incomplete. If the rental item is not returned on the agreed return date, the customer is obliged to pay the agreed rent for each week commenced, unless he can prove that no or only minor damage has been incurred. Further claims for damages in our favor remain unaffected by this.

- 11.2 Upon return, the rented item shall be inspected by us and the result of the inspection shall be recorded in writing. If no agreement is reached with the customer on the contents of the handover report, an expert may be called in to inspect the rented item at our request or at the customer's request. If no agreement is reached on the choice of expert, the expert shall be appointed by the chairman of the Chamber of Industry and Commerce. The expert shall determine the extent of the defects and damage, the anticipated costs for their rectification and the time required to carry out the work and shall record these in an expert report. The expert's report is binding for both parties. The expert shall also decide who is to bear the costs of the expert opinion.
- 11.3 If the customer is unable to return the rental item for reasons for which he is responsible or for compelling technical reasons, he is obliged to compensate the resulting damage.

## **12 Security deposit**

If stipulated in the offer, the customer shall provide us with a security deposit in the amount specified in the offer for the duration of the rental period. At the end of the rental period, the customer shall receive the security deposit back if there is no reason for withholding or offsetting due to breach of duty, e.g. damage to the rental item.

## **13 Termination**

We may terminate the rental agreement for good cause without observing a notice period if the customer breaches his obligations under Section C 6 despite a written warning.