

## GENERAL TERMS AND CONDITIONS

**1. Contractual conditions** - When an order is placed, the following contract and delivery conditions are deemed to be accepted. Offers are non-binding, a contract is concluded with the written acceptance of the offer or the written order confirmation, orally placed orders must subsequently be made in writing. The acceptance of the order by ZABAG International GmbH (contractor, AN) takes place exclusively under the following conditions.

**2. Ownership and copyright** - The AN reserves the ownership and copyright of all documents and data (e.g. calculations, offers, drawings, also samples) provided to the Client (AG); these documents may not be made accessible to third parties without the express written consent of the AN. Intellectual property in solutions found on the occasion of an order and industrial property rights (patents, utility models, etc.) to be substantiated on the basis thereof shall be the exclusive property of the AN, unless the parties have expressly agreed otherwise in writing and a remuneration for the AN for the transfer of inventions or industrial property rights has been determined.

Documents, documentation or software provided by the AN may not be used by the AG for purposes other than assembly, commissioning, operation or maintenance without the AG's consent. In this respect, the AG receives the non-exclusive and non-transferable right, free of charge, to use these items exclusively in connection with the delivered system and for no other purpose whatsoever.

**3. Execution of the order** - The AN is generally not liable for errors resulting from the documents submitted by the AG (e.g. drawings) or from inaccurate or verbal information. The AN owes the AG a work of medium type and quality, unless a different quality has been expressly agreed. Should the AN or a third party suffer damages due to the unsuitability of one of the above-mentioned items, the AG must bear these and indemnify the AN from any claims for damages by third parties. If the AG commissions the AN with the redesign of a previously undocumented system, the AN shall not assume any guarantee for the successful execution of the order and the efficiency of the design found in the process. If the task set by the AG turns

out to be unfeasible or economically unfeasible (costs for the completion of the order exceed the agreed wage for work by at least 50%, without this being recognizable at the time of acceptance of the order), the AN loses the claim to the agreed remuneration, but may invoice the hours worked by his employees as service. Furthermore, the AG must reimburse the AN for the costs of purchased services and materials that were ordered for the execution of the order. In this respect, the AN is obliged to stop his work on the order immediately and to inform the AG as soon as the impracticability or economic unfeasibility is predicted.

**4. Deadlines and agreements** - Agreements on execution dates or "deadlines" are only approximate in case of doubt and are not to be understood as fixed dates. Call orders without deadlines must be called for execution by the AG no later than one year after placing the order. The agreed remuneration shall also be due if the Client does not accept the delivery offered by the Contractor. Insofar as the AG objects to saved expenses of the AN, it is incumbent upon him to provide corresponding proof. The AG can only demand compliance with the agreed execution deadlines or delivery dates if he has provided all necessary documents within a period of 14 days from acceptance of the order by the AN (the receipt by the AN is decisive). In addition, an unimpeded start of assembly on the construction site must be ensured during assembly (planning, preliminary orders or preliminary works must have been completed and all documents handed over to the AN). Furthermore, the agreed payments must have been received by the AN. If the start, continuation or completion of the work is delayed for reasons for which the AG is responsible, the AN shall be released from the obligation to meet agreed delivery dates. If the AG does not remedy the situation immediately at the request of the AN, the AN can set the AG a reasonable deadline for remedy and declare that he will withdraw from the contract and/or demand compensation for damages after the unsuccessful expiration of this deadline. The same shall apply in the event that the AN is unable to meet the delivery date or an agreed deadline (subject to the following provisions regarding circumstances for which the AN is not responsible). In the event of withdrawal from or dissolution of the contract, the AN shall be

entitled to compensation for all expenses incurred to date as well as lost profits. The AN is entitled to a lump sum of 20 % of the order total for each of these expenses and the loss of profit. The AG is at liberty to prove that expenses and/or profit are to be estimated at a lower level. The AN reserves the right to assert a higher, specifically calculated expense or profit. Cases of force majeure (e.g. labor disputes) or other circumstances in the business of the AN or one of his suppliers, for which the AN is not responsible (e.g. difficulties in procuring materials, loss of manpower, official orders), release the AN from compliance with the delivery deadlines and suspend the expiry of the deadline. In the event that such events last at least six weeks and their end is not foreseeable or in the event that the delivery or service becomes completely impossible due to such events, both parties shall be entitled to withdraw from the contract.

**5. Provision of security and retention of title** - If, after conclusion of the contract, it becomes apparent that the AN's claim for payment is at risk due to the AG's lack of solvency, performance may be refused and a reasonable period of time may be determined within which the AG must make payment or provide security concurrently with delivery/performance. Refusal or unsuccessful expiry of the deadline entitles the AN to withdraw from the contract and claim damages. Delivered items shall remain the property of the AN until the order has been paid in full and until all due claims of the AN against the AG have been paid. If the value of this ownership by way of security exceeds the value of the open claims by more than 20 %, the AN is obliged, at the request of the AG, to release the ownership by way of security to this extent and at his discretion. Insofar as the delivered items have become an integral part of a property belonging to the AG, the AG undertakes, in the event of non-compliance with the agreed payment deadlines, to allow the AN to dismantle the installed items, provided that they can be removed without significantly impairing the building structure. The ownership of these items shall be transferred back to the AN. The costs of dismantling shall be borne by the AG. If the dismantling is prevented by the AG, the AG shall reimburse the AN for all expenses incurred by the attempt of dismantling, in particular by the posting of employees for this purpose.

**6. Deliveries to properties not belonging to the AG** - If delivery items have to be installed in a property which does not belong to the AG, the AG shall assign all his

contractual and legal claims against the property owner to the AN by way of security upon placing the order. The assignment shall end only with payment of the order and all other due claims of the AG.

**7. Goods notified as ready for dispatch** - Goods notified as ready for dispatch must be accepted immediately, otherwise the AN is entitled to dispatch them at his own discretion or to store them at the expense and risk of the AG. The above statements on the scope of the obligation to pay compensation (point 4) shall apply accordingly.

**8. Transfer of risk** - The quality of the goods shall be based exclusively on the agreed technical delivery specifications. If the AN delivers according to the specifications, drawings and samples of the AG, the AG assumes the risk of suitability for the intended use. Decisive for the contractual condition of the goods is the time of transfer of risk according to point 11. The AG must inspect the delivered goods immediately after delivery and notify the AN of all obvious defects in writing without delay. The assertion of obvious defects after this period is excluded. Other notices of defects become prescribed one year after the transfer of risk of the goods according to point 11. Exceptions are damages to body, life, health or intent and gross negligence

**9. Subsequent performance** - In case of justified, timely notification of defects, the AN shall, at his discretion, either remedy the defect or deliver a flawless replacement (subsequent performance). The warranty does not cover defects caused by improper or negligent handling, assembly or operating errors, excessive strain, insufficient maintenance and normal wear and tear, nor does it cover the consequences of improper modifications or repair work carried out by third parties or without the consent of the AN. If defects are reported, the AG must set the AN in writing a reasonable deadline for subsequent performance. The deadline must provide sufficient opportunity to examine and, if necessary, remedy an alleged defect on site. If the rectification of defects has not taken place after expiry of this period, the AG shall be entitled to a reasonable reduction of the agreed remuneration, provided this is reasonable for the AG. Reimbursement of costs is excluded if the expenses increase because goods have been moved to another location after delivery by the AN.

**10. Limitations of liability** - Unless otherwise stated below, other and further claims of the AG against the AN are excluded. This applies in particular to claims for

damages due to breach of duties arising from the contractual obligation and unlawful acts. The AN is not liable for damages that have not occurred to the delivered goods themselves, nor for loss of profit and other financial losses of the AG. The above limitations of liability shall not apply in the event of intent, gross negligence on the part of legal representatives or executives of the AN or culpable violation of essential contractual obligations. In the event of a culpable breach of essential contractual obligations, the contractor is only liable for the contractually typical, reasonably foreseeable damage, except in cases of intent or gross negligence on the part of legal representatives or senior employees of the contractor. Furthermore, the above limitations of liability shall not apply in the event of injury to life, body or health of persons.

**11. Transport of goods and assembly** - In the absence of a special agreement, the AN shall choose the means and route of transport. The risk is transferred to the AG when the goods are handed over to the forwarder/carrier or when storage begins in accordance with point 7, otherwise when the goods leave the factory or warehouse, even if the AN has accepted the delivery. If the goods delivered to the construction site are damaged, destroyed or stolen before installation due to force majeure or other circumstances for which the AN is not responsible, the AN is entitled to the full remuneration. If the AG wishes to invoke fault or a lower share of assembly costs on the part of the AN, he shall bear the burden of proof. In the event of delivery of the goods by the AN, the AG shall ensure that all unloading points can be reached by truck. In the case of material transport over a distance of more than 10 meters from the unloading point, this is considered an additional, chargeable difficulty. Should such a difficulty arise, the AG shall be notified immediately. If no other agreement has been made, any installation hours that may be incurred will be charged in addition to the quoted amount. In case of delivery free building site unloaded, the agreed price is understood to be free truck on a drivable road at ground level. Unloading is the responsibility of the AG; in case of delay, the AG must bear the costs and risk of unloading, storage and return transport.

If the goods are shipped via third parties, the AG is in any case obliged to arrange for the determination and notification of claims for compensation in case of loss, reduction or damage. The written consent of the AN is

required for the return of goods or the cancellation of orders. Return shipments to the AN shall be addressed carriage paid.

**12. Limited obligation to perform** - If a system cannot be fully installed due to a circumstance for which the AG is responsible, the obligation to perform shall be limited to the installation of those parts of the service which can be installed. The agreed remuneration remains unchanged, but the AN must deduct the purchase value of the non-installed parts from the work remuneration if he can use these parts otherwise.

**13. Agreements with the AN** - All agreements with employees or fitters of the AN are non-binding and require without exception written confirmation by the AN to be binding.

**14. Payments** - Payments to representatives and employees of the AN release the AG from his payment obligations only if these representatives or employees present a written power of attorney from the AN to collect the money.

**15. Sample systems** - If the representative of the AN makes an agreement with the AG in such a way that it concerns a sample system and the AG is to receive a brokerage commission for subsequent orders made in this respect, then the AN is not obligated by this. This is then exclusively a contractual relationship between the representative of the AN and the AG, whose contractual payment obligation towards the AN remains unaffected.

**16. Payment agreements** - All agreed prices are strictly net plus the legal value added tax. The deduction of a discount is only permissible based on a special written agreement. The AN is entitled to invoice delimitable parts of his service with an advance invoice. All invoices, including partial invoices, are payable strictly net within 14 days of the invoice date, unless otherwise agreed. Should the AG be in arrears with the payment of invoices, including partial invoices, due to reminders or due to legal regulations, the AN is entitled to a right of retention or right to refuse performance. This does not apply to minor outstanding payments. Invoices up to 200.00 Euro are due immediately in cash and without deduction. All payments shall be credited, irrespective of any other dispositions of

the AG, firstly to interest and costs, secondly to the oldest claim of the AN. Non-compliance with the terms of payment, default or circumstances that are likely to reduce the creditworthiness of the AG shall result in the immediate maturity of all claims of the AN.

**17. Delivery agreements** - In delivery offers, the prices apply from the Grünhainichen warehouse. A delivery by the AN can be agreed.

**18. Information and approvals of the AN** - When placing the order with the AN, the AG must have obtained any necessary approvals himself. When placing the installation order, the AG must indicate any cables or lines that may be present in the area of the installation site or present valid shaft approval certificates. If such notification is omitted, the AG is liable for all damages arising from this. The same applies in case of inaccurate information. Should the parties have agreed on the application of the VOB/B, the above provisions of this point shall take precedence.

**19. Advertising with built systems** - The AN may use systems built by him and their mode of operation in his advertising without a separate agreement with the AG, unless essential interests of the AG or a separate written agreement contradict this.

**20. Applicable law** - The place of performance and jurisdiction is the registered office of the AN, unless otherwise stipulated by law. German law shall apply exclusively between the parties, with the exception of the UN Sales Convention. The AN is basically interested in an out-of-court settlement in case of a dispute. Under the Consumer Dispute Resolution Act: The AN is neither obliged nor willing to participate in a dispute settlement procedure before a consumer arbitration board.

**21. Data protection, data processing** - The personal and/or technical data provided by the AG shall be used by the AN exclusively to process the AG's orders, to answer the AG's inquiries and to enable the AG to access certain information and offers. In order to maintain the business relationship, it may also be necessary to store and process the personal or technical data of the AG or to forward them to subcontractors for the purpose of processing the AG's orders or answering the AG's inquiries. Furthermore, it may be necessary for the AN to use the personal and/or

technical data of the AG in order to inform the AG about offers that are useful for his business activities. The AN will obviously respect it if the AG does not agree to the use of corresponding data to support the business relationship. All data provided by the AG shall neither be sold to third parties nor marketed in any other way by the AN. The AN shall collect, process and use all data provided by the AG only for the notified purposes, except if the collection, processing or use is necessary for the preparation, negotiation and fulfilment of an order of the AG, for the substantiation or protection of legal claims or for the defense against lawsuits or due to legal obligations or official and court orders. The same applies to the collection, processing or use of data of the AG to prevent abuse or other illegal activities.

**22. Binding force** - In the case of documents, the German version is binding.

**23. Final provisions** - Should individual points of these conditions be invalid or incomplete, the remaining points shall remain unaffected.

#### **ADDITIONAL PROVISIONS FOR CONTRACT WORK**

##### **1) IN THE FIELD OF MECHANICAL MANUFACTURING/METAL PROCESSING**

If contract work is carried out and materials, semi-finished products, tool devices or other parts are provided by the AG, the AG is obliged to check the suitability of the above-mentioned items for the contractual purpose. The AN is not subject to such a duty of inspection. Furthermore, the AG acknowledges the usual committee as agreed. In any case, scrap up to 5% of the total amount of material is permitted and in accordance with the contract. Should the defect of one of the above-mentioned items made available result in a part manufactured by the AN being defective or unusable, the AG shall nevertheless pay the agreed compensation for work.

In the case of contracts concluded with a longer processing period or in the case of orders on call, the AN shall be given call orders and corresponding specifications for approximately equal monthly quantities. If no call or specification is made in due time within a reasonable period to be determined by the AN, the AN is entitled, either at his discretion, without call, to charge according to the prices valid on the day of delivery, or after

unsuccessful setting of a deadline, to claim damages for non-performance, or to withdraw from the part of the contract in arrears.

Weight and content specifications, illustrations and dimensions are only approximately described in the lists, offers and order confirmations of the AN. A guarantee for their compliance is not given. The goods shall be packaged by the AN in a manner customary in the trade, insofar as this is agreed and confirmed in writing, or is necessary at the AN's discretion. The calculation depends on the offer. Claims for delivered goods from defects in packaging cannot be asserted against the AN on the basis of the freight forwarder's note "inadequately packed" or "unpacked".

## 2) IN THE AREA OF SURFACE FINISHING / POWDER COATING

Unless otherwise agreed, the goods must be delivered by the AG and picked up again after completion. If the transport is carried out by a commissioned transport company, the AG shall bear the costs. Deliveries are made

carriage forward and excluding packaging at the expense and risk of the AG. The risk shall pass to the AG as soon as the consignment has been handed over to the person carrying out the transport, has left the AN's warehouse for the purpose of dispatch or notification of readiness for dispatch has been given to the AG by the AN. If dispatch becomes impossible through no fault of the AN, the risk is transferred to the AG with the notification of readiness for dispatch. If no details are given about the desired packaging, the finished parts will be provided unpacked by the AN.

The agreed prices are subject to change. The minimum order value is 100.00 euro net. The areas, numbers of units and quantities determined by the AN shall be decisive for the calculation unless the AG objects immediately, i.e. within three working days at the latest. The agreed prices are ex works and exclude packaging. If order-related costs change significantly after conclusion of the contract, the contracting parties are obliged to agree on an adjustment of the prices. The AN is entitled to have placed orders executed by third parties.

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