

**General Terms and Conditions of Delivery and Performance
of Zipp Industries GmbH & Co. KG and
of Zipp Maschinentechnik GmbH
Erwin-Topp-Str. 3, D-44866 Bochum**

I. Scope of validity

The following terms and conditions of business (hereinafter also called "GTCBs") apply in their respective version exclusively for all current and future enquiries, offers, deliveries and performances between us and the Customer.

Any contradictory, deviating or supplementary terms and conditions of business of the Customer are expressly refuted. These are only binding if we recognise the same in writing.

This is a translation of the original German GTCBs and for convenience purposes only. In case of any inconsistencies between the German and the English wording, the German wording shall prevail.

II. Offer and conclusion of the contract

1. Our offers are subject to confirmation and are non-binding. Agreements only become legally effective through our written confirmation. We may accept orders or commissions within 14 days following their receipt.
2. The scope of performance derives from our written confirmation. References to standards, similar technical rules, other technical specifications, descriptions and illustrations of the object of delivery in offers, price lists, catalogues and brochures do not represent any guaranteed features. Specific properties

of the goods are, as a basic principle, only deemed to be represented by us if we have expressly confirmed these in writing.

3. We may make technical improvements in the design, material and form if and in so far as this does not jeopardise the purpose of the contract and this is also otherwise conscionable for the purchaser having regard to its interests.

III. Prices; Payment; Default

1. Unless otherwise stated, our prices are quoted in Euro without the respectively applicable value added tax, which is to be added to the same, and ex our works exclusive of packaging, freight, postage and insurance.

Price increases are admissible for deliveries made later than 6 months following the conclusion of the contract if and in so far as they are based on changes in price-determining factors in the manufacturing process for which we are not responsible and which have arisen following the conclusion of the contract, provided this is conscionable for the Customer having regard to its interests. The Customer is to be notified of any such price increase within a reasonable period.

2. In order to verify whether deliveries in the territory of the European Community can be made free of value added tax, we require the following details from the Customer: VAT identification number; name and address, destination and also the provision of all documents necessary for the proof of an inter-Community supply exempt from tax

- (documentary evidence, acknowledgement of receipt etc.). In the event that we are charged with a value added tax back-payment due to incorrect or incomplete details of the Customer, we shall be entitled to charge this sum to the Customer in turn. Should the incorrectness or incompleteness of the details result from any fault of the Customer, it shall be liable to us in damages.
3. Our invoices are payable within 30 days as from the invoice date; where payment is made within 14 days, a 2 % prompt payment discount may be deducted. Invoice sums for labour are payable immediately without any deduction.
 4. Notwithstanding any contrary payment terms of the Customer, payments will first be set off against its older debts and, where the debts are of the same date, against each debt pro rata. If costs and interest have already arisen, we shall be entitled first to set off the payment against the costs, then against the interest and finally against the principal performance.
 5. Where the payment period has been exceeded and a formal reminder issued, we shall, without prejudice to further-reaching claims, charge interest at the amount of the normal bank rate, but at least 9 % above the basic interest rate in accordance with § 247 BGB [*Bürgerliches Gesetzbuch - German Civil Code*].
 6. Should the Customer fail to comply with its payment obligations, in particular if a cheque is not honoured or the Customer ceases to make payments, our entire claims arising from the business relationship shall fall due immediately without regard to any deferment agreements.
 7. The Customer shall only be entitled to a right of set-off or withholding if these counter-claims have been judicially decided and are final and legally binding or they are undisputed.
 8. Should we ascertain, following the conclusion of the contract, that a significant deterioration has occurred in the financial circumstances of the Customer, we shall be entitled, at our option, to demand payment in advance or the provision of sufficient security to cover both claims which are already and claims which are not yet due, and to refuse performance until the advance payment has been made or security provided.
- IV. Delivery period and impossibility of delivery**
1. Agreed dates and periods shall not start to run before the Customer has furnished the documents to be procured by it and before all details concerning the execution have been clarified.
 2. We shall not be liable for any impossibility of delivery or for delays in delivery where these are caused by force majeure or other occurrences

not foreseeable at the point in time of the conclusion of the contract (e.g. operational disruptions of any kind, difficulties in the procurement of material or energy, delays in transport, strikes, lawful lockout, lack of manpower, energy or raw materials, difficulties in the procurement of necessary official permits, official measures or non-delivery, incorrect or late delivery by suppliers) for which we are not responsible. Where such occurrences make it considerably more difficult or impossible for us to make the delivery or render the performance, and the impediment is not just of a temporary nature we shall be entitled to rescind the contract. In the case of hindrances of a temporary nature, the periods for delivery and performance shall be extended or the dates for delivery or performance deferred by the period of the impediment plus a reasonable lead time. Where the Customer, as a result of the delay, cannot reasonably be expected to accept the delivery or performance, it may cancel the contract through prompt written declaration to the contractor.

3. If any necessary official import or export permits are not issued or the performance of the contract is or becomes impossible as a result of official import or export bans and we are not responsible for cases of the type described above, we may rescind the contract even where we have undertaken to apply for an import or export permit. The Customer

may not derive any claims against us on these grounds.

4. We shall be entitled to make part deliveries if
 - the Customer is able to use the part delivery within the scope of the specified contractual purpose,
 - the delivery of the remainder of the goods ordered is ensured and
 - the Customer will not incur any significant extra expenditure or additional costs thereby (unless the contractor undertakes to assume these costs).
5. We assume no liability for timely transport. The delivery period is deemed to be met upon notification of readiness for shipment even if the actual shipment is delayed or becomes impossible through no fault of our own or any fault of the delivery plant.
6. Should we fall into default with delivery, the Customer may set a reasonable extension of time and, following the fruitless expiration of the same, cancel the contract, either in whole or in part. Claims for damages on account of delayed delivery and on account of non-performance - irrespective on which ground - shall apply only in accordance with the terms of the provisions of Section X.

7. We shall not be in default as long as the Customer is in default with the performance of its obligations to us, including obligations under other contracts.

V. Reservation of title

1. Up until payment in full of all present and future claims, including all ancillary claims against the Customer arising from the business relationship, the goods delivered remain our exclusive property.
2. In the event of any conduct of the Customer contrary to the contract, in particular in the case of default in payment, we shall be entitled, after setting a reasonable period, to demand the return of the consignment. A demand for the return only constitutes cancellation of the contract where we expressly declare the same.
3. In the case of seizure or other interferences or encroachments by third parties, the Customer shall notify us without delay. In the case of seizure, the Customer or purchaser shall bear the costs of the intervention proceedings.
4. The Customer shall adequately insure the goods subject to the reservation of title, in particular against fire and theft. Claims against the insurance company arising from any case of loss or damage relating to the goods subject to the reservation of title are hereby assigned to us now in the amount of the value of

the reserved goods. We accept the assignment.

5. Up until notice of revocation, the Customer shall be entitled to re-sell, process, mix or combine the consignment in its ordinary course of business so long as it fulfils its payment obligations to us. It is not permitted to make any other dispositions over the goods, in particular to pledge or assign the goods by way of security.
6. The reservation of title extends to the products at their full value arising through the processing, mixing or combination of our goods, whereby we shall be deemed to be the manufacturer. Should property in the goods of third parties continue to exist following any processing, mixing or combination with goods of these third parties, we shall acquire co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply for the product created as for the goods supplied subject to reservation of title. The Customer shall hold the property or jointly owned property in safekeeping for us without charge. The co-ownership rights hereby arising apply in the same manner as goods subject to reservation of title. The Customer shall at all times be obliged upon our demand to provide us with the necessary information in order to enable us pursue our ownership or co-ownership rights.

7. The Customer shall be obliged only to resell or process the goods subject to agreement of a reservation of title. Already now it assigns to us by way of security all claims against third parties, in total or in the amount of any co-ownership share we may have in accordance with the foregoing paragraph. We accept the assignment. The prohibitions specified in para. 5 (pledging and assignment by way of security) also apply in regard to the claims assigned.

8. The Customer may not make any agreement with its purchasers which in any way excludes or impairs our rights or which frustrates the anticipatory assignment of the claim.

In the case of the sale of goods subject to the reservation of title together with other items, the claim against the third party purchaser is deemed to be assigned in the amount of the delivery price agreed between ourselves and the Customer unless the amounts attributable to the individual goods can be established from the invoice. In the case of the sale of co-ownership shares as goods subject to reservation of title, the claim arising from the re-sale is deemed to be assigned to us in the amount of our co-ownership share.

9. The Customer remains authorised, in addition to ourselves, to collect the claim assigned without this affecting our right to collect the claim ourselves. As long as the Customer

complies with its payment obligations we shall not exercise our right to collect the debt.

10. In the case of any conduct of the Customer contrary to the contract, in particular in the case of default in payment, we shall be entitled to cancel the contract in accordance with the statutory provisions and to demand the surrender of the goods subject to reservation of title by virtue of the reservation of title and of the cancellation. We may at any time enter upon the business premises of the Customer during normal business hours in order to establish the stock of the goods supplied by us. The purchaser shall notify us without delay of all seizures by third parties of goods subject to the reservation of title or claims assigned to us or of any application for the opening of insolvency proceedings.

11. At the demand of the Customer, we shall release the security rights to which we are entitled in so far as their value exceeds the claims to be secured by more than 20 %.

VI. Acceptance, shipment and passing of risk

1. If an acceptance has been agreed, this shall take place in the delivery plant immediately following notification of the readiness for shipment. The costs shall be borne by the Customer. Should no acceptance take place, or should it not take place at the specified time, or should the Customer waive the

same, we shall be entitled to ship the goods without acceptance or to store the same at the expense and risk of the Customer. In such case, the goods shall be deemed to have been delivered free from defects unless the defect would also not have been apparent upon acceptance.

2. In all other respects, the statutory provisions governing the law on contracts for work and services shall apply correspondingly for any agreed acceptance.
2. In the absence of any special agreement, the choice of the means of transport, shipment route and packaging is left to us. If packaging is agreed, this will be provided in the manner customary in the trade subject to an additional charge.
3. Risk shall pass to the Customer upon the transfer of the goods to a carrier or freight forwarder, at the latest when the goods leave our warehouse or the delivery plant - also in the case of delivery free to destination. This also applies where we have assumed the task of delivery. At the wish and expense of the Customer, the consignment will be insured against breakage, transport damage and damage by fire.
4. Any transport damage is to be noted immediately on the delivery note.
5. Goods notified as being ready for shipment must be called up by the Customer without delay. We shall otherwise be entitled at our option

either to ship the same or to store the goods at the expense and risk of the Customer.

6. Storage costs following the passing of risk shall be borne by the Customer. Where goods are stored by us, the storage charges shall amount to 0.25 % of the invoice amount of the delivery items to be stored per full week of storage. The right to assert further storage costs and the right to prove that higher or lesser storage costs have been incurred remain reserved.

VII. Industrial property rights

1. We reserve title and copyrights in all illustrations, drawings, models, plans, software, samples and other documents. They may neither be reproduced nor made accessible to others without our consent, and are to be sent back to us postage paid upon demand or, if the order is not placed, without delay.
2. Should any industrial property rights of third parties be infringed in the manufacture of the goods in accordance with drawings, models, samples or other specifications of the Customer, the Customer shall indemnify us from all claims.
3. If the order is not placed with us, we shall be entitled to demand reasonable remuneration for the models, drawings, plans and other documents prepared by us.

VIII. Instructions for use

Our products may only be used for the intended purpose and by qualified and properly trained personnel. Our products are to be used in a professional and proper manner in compliance with the recognised rules of technology and the contractually agreed features, standards and also the safety, occupational health and safety, accident prevention and other regulations. In addition, the Customer shall observe any instructions for use of the individual products. Any modifications made or attachments added are carried out at the risk of the Customer unless we have expressly given a guarantee in this connection.

IX. Warranty

1. We warrant delivery and performance in regard to material and design corresponding to the respective state of technology. Should the object delivered be defective, the Customer may, at its option, demand elimination of the defect (rectification) or delivery of an object free from defects (substitute delivery). If the Customer does not state which of the two rights it chooses, we may set it a reasonable period of time for this purpose. Should the Customer not exercise its choice within the period stated, the right of choice shall pass to us upon the expiration of the period. In so far as the Customer has notified us in writing

of the intended purpose of the consignment and we have expressly confirmed its suitability for use in writing, we also give a warranty as to the suitability for use.

The warranty period shall commence on the day of the passing of risk, but no later than three months after the consignment has left our works, and amounts to 1 year.

2. In the case of defects in components of other manufacturers which we cannot eliminate either by reason of the licence provisions or for factual reasons we shall, at our option, assert our warranty claims against the manufacturers and suppliers for the account of the client or assign the same to the client. Warranty claims against us in the case of any such defects shall only apply, subject to the other conditions and in accordance with the terms of these General Terms and Conditions of Delivery and Payment, if the enforcement of the above-mentioned claims against the manufacturer and supplier through court action was unsuccessful or has no prospect of success, for instance due to insolvency. During the period of the legal dispute, the limitation period for the corresponding warranty claims of the client against the contractor shall be suspended.
3. Any delivery of used objects agreed with us in any individual case is made subject to the exclusion of any warranty for material defects. In regard to liability in other respects,

reference is made to Section X of these GTCBs.

4. Objects of delivery which are replaced are to be sent back postage and carriage paid. They pass into our ownership.
5. Natural wear and tear and damage for which the Customer is responsible are excluded from the warranty. The same applies for faults in design and material if the delivery is made in accordance with design specifications provided by the Customer.
6. The Customer or the recipient specified by it shall carry out a careful inspection of the items delivered by us without delay following delivery.

In regard to obvious defects or other defects which would have been apparent upon a prompt and careful inspection, the goods shall be deemed to be approved by the Customer unless written notification of the defect is received by us within 7 working days following delivery.

In regard to any other defects, the objects of delivery shall be deemed to be approved by the Customer unless the notification of the defect is received by the contractor within 7 working days after the point in time at which the defect was discovered by the Customer; if, however, the defect was already apparent to the client at an earlier point in time under normal conditions of use, this

earlier point in time shall be the relevant date for the purpose of the commencement of the period for the notification of the defect.

7. The Customer shall grant us the necessary time and opportunity to undertake all rectification measures which appear to us to be necessary and also to make delivery of any replacement. Should the Customer refuse the same, we shall be released from all liability.
8. Should the type of rectification chosen by the Customer be impossible, or should the same entail disproportionate costs, we shall be entitled to refuse rectification. The Customer may then demand a reduction in the price or cancel the contract.
9. Should any defect result from fault on our part, the Customer may furthermore only demand damages subject to the conditions specified in Section X.

X. Claims for damages; Exclusion of liability

1. The liability of the contractor for damages, irrespective on which legal ground, in particular arising from impossibility, default, defective or incorrect delivery, breach of contract, breach of duty in the contractual negotiations or in tort shall, in so far as fault is relevant in the respective case, be limited in accordance with the terms of this Section.
2. The contractor shall not be liable in the case of ordinary negligence on

the part of its organs, statutory representatives, employees or other vicarious agents except in so far as the matter relates to a breach of fundamental contractual duties. Fundamental contractual duties are duties, the fulfilment of which is a central feature of the contract and upon which the contract partner is entitled to rely.

In so far as the contractor is, in principle, liable to damages in accordance with the foregoing provisions, this liability shall be limited to such damage as the contractor foresaw as a possible consequence of a breach of contract at the point in time of the conclusion of the contract or ought to have foreseen had it applied the appropriate due care and attention. Moreover, the contractor shall only be liable to compensate indirect damage or consequential damage to the extent that such damage can typically be expected.

3. The foregoing exclusions and restrictions of liability shall apply in the same scope in favour of the organs, statutory representatives, employees and other vicarious agents of the contractor.
4. The restrictions of this Section shall not apply to the liability of the contractor in the case of deliberate intent, gross negligence or on account of injury to life, limb or health or liability under the *Produkthaftungsgesetz [Product Liability Act]*.

5. Where the contractor provides technical information or acts in an advisory capacity and this information or advice does not fall within the contractually agreed scope of performance owed by it, this is provided free of charge and to the exclusion of all liability.

XI. Court venue and miscellaneous provisions

1. The place of performance for deliveries and payments is the place of our registered office.
2. Bochum shall be the court venue for all disputes arising from the contractual relationship except in so far as a different court venue is prescribed under mandatory provisions. We shall also be entitled to sue the Customer at the place of its head office.
3. The legal relations between the Customer and ourselves shall be governed exclusively by the law of the Federal Republic of Germany. The application of the Convention of the United Nations on Contracts for the International Sale of Goods (CISG) is excluded.
4. Even in the case of the legal ineffectiveness of individual conditions, the remainder of the contract shall remain legally binding. In the event of the ineffectiveness or nullity of any of the provisions of our General Terms and Conditions of Business, it is agreed that in place of any such ineffective or void provisions such

arrangement shall apply as is legally effective and most closely corresponds to the intended purpose of the contract.

5. The Customer takes note of the fact that we store data arising from the contractual relationship in accordance with § 28 BDSG [*Bundesdatenschutzgesetz - Federal Data Protection Act*] for the purpose of data processing, and that we reserve the right to transmit the data to third parties (e.g. insurance companies) for the purpose of the performance of the contract.