

GENERAL SALES TERMS AND CONDITIONS (international)

of the Company Dietmar Zinser

I. SCOPE OF APPLICATION; GENERAL

1. The present General Sales Terms and Conditions (AVB (international)) of the company Dietmar Zinser, Auchttertweg 24, 72172 Sulz-Glatt, Germany (hereinafter: „Zinser“ and/or „we“) shall apply to all transactions on the delivery of goods to the customer by Zinser, insofar as the customer has its branch outside Germany.
2. The field of application of the present AVB (international) is limited to contracts with businessmen, legal entities of public law or special funds under public law. The AVB (international) do not apply to business dealings with consumers within the meaning of Section 13 BGB [German Civil Code].
3. The present AVB (international) shall apply exclusively. The integration of contrary, complementary or deviating terms and conditions from our AVB (international) of the customer is herewith contradicted. These do not apply, even if we carry out delivery to the customer being aware of or without express contradiction to different terms and conditions of the customer.
4. Individual agreements with the customer (including side agreements, amendments and modifications) in any case take priority over the present AVB (international). For the content of such agreements, a written contract (Section 126 BGB) and/or our written confirmation (Section 126 BGB) is authoritative.
5. The present AVB (international) shall apply also to future transactions between Zinser and the customer without a new integration being necessary.
6. Legally relevant declarations and notifications, which, if necessary, have to be made after conclusion of contract by the customer towards us (e.g. setting of deadlines, notifications of defects etc.), must be made in writing in order to be valid (Section 126 BGB).
7. Rights to which we are entitled pursuant to statutory provisions or other agreements beyond the present AVB (international) remain unaffected.

II. RIGHTS TO DOCUMENTS

1. Offers, cost estimates and other documents transmitted within the scope of contract negotiations remain our property and may only be made available to third parties with prior written approval (Art. 13 CISG).
2. We are exclusively entitled to (copy) rights to samples, appliances, tools, drawings, cost estimates, drafts and plans produced by us, in particular to patent rights, copy-rights and inventor's rights. They are only permitted to be made accessible to third parties, if we have expressly given our approval.
3. The ceding of the above mentioned items and documents does not represent an assignment of rights or granting of rights (licence to use) to the customer.
4. The customer warrants and represents that documents made available to us do not infringe third party rights. The customer is liable for the fact that documents, in particular drawings, plans etc. made available by it to us are true to size, directly suitable for determination of the contractually owed service and are consistent with actual conditions.

III. ACCESSORY OBLIGATIONS OF THE CUSTOMER

1. The customer is obliged to communicate promptly to us all binding statutory provisions, which are valid at its registered office or at the place of destination of the goods known to it, insofar as these binding statutory provisions are contradictory to the present contract content or might impair the performance of the present contract.
2. The customer engages itself, insofar as we have to carry out measures within the scope of fulfilment of the present contract in the country where the customer has its registered office or where the place of destination of the goods known to the customer is located, to assist us in full.

IV. CONCLUSION OF CONTRACT

1. Unless expressly stated otherwise, our offers are non-binding and without obligation. This applies also, if we have ceded catalogues, technical documentation or other product descriptions - also in electronic form - to the customer and if, upon the customer's request, we transmit a preliminary invoice (proforma invoice) or comparable declarations, in particular for the purpose of fulfilment of requirements of public administrations.
2. The contract is only effectively concluded by our written order confirmation (Art. 13 CISG) or our provision of service. We are entitled to acceptance of an offer submitted by the customer by written order confirmation within ten working days as from receipt of the offer by us. If contract conclusion occurs by our providing of service, this must have been made within ten working days as from receipt of the customer's offer.
3. A submitted offer of the customer is irrevocable for the time period of two weeks as from receipt by us. This does not apply, if the customer has expressly reserved revocability in written form (Art. 13 CISG).

V. SUBJECT MATTER OF THE CONTRACT; ADJUSTMENT OF THE CONTRACTUALLY OWED PERFORMANCE

1. The contractually owed performance is determined by the agreement, in particular the order confirmation, alternatively the ordinary intended use of goods of the same type. A special intended use provided by the customer is authoritative only if such intended use has been expressly made known to us in writing (Section 126 BGB) prior to contract conclusion.
2. The subject matter of contract is according to contract, if it complies with the legal requirements, in particular the governmental, public or official requirements at our registered office. We shall only be responsible for compliance of outlined requirements at the customer's registered office, in the country of the place of destination of the goods known to the customer or in any other third country, if we have made an express written covenant (Section 126 BGB) in this respect, and the customer complies with its obligations to cooperate regarding existing requirements, in particular pursuant to III. Generally it is incumbent upon the customer to obtain approvals which might be necessary.
3. The contractually owed performance is free from defects of title insofar as a third party cannot raise any claims against the customer in this respect on the territory of the Federal Republic of Germany. Freedom from third party rights with respect to other states is owed by Zinser only, if we have confirmed this in writing (Section 126 BGB).
4. Technical specifications of our products such as weight and dimensions, performance and property descriptions as well as illustrations, drawings and other documents do not represent warranted properties. Specific properties are only deemed to be guaranteed, if a separate written agreement (warranted property) has been made. For the written form of the warranty declaration Section 126 BGB is authoritative.
5. A possible documentation is owed only in German or English language subject to mandatory statutory regulations. The agreement of an obligation to make available a possible documentation in another language must be made in writing in order to be valid (Section 126 BGB).
6. Subsequent modifications or adjustments of the service owed by us are admissible insofar as they are customary in the trade or technically required, and do not afflict the customer in a manner which is not unreasonable.

VI. DELIVERY TIME; RESERVATION REGARDING AVAILABILITY OF SUPPLIES; FORCE MAJEURE; PARTIAL DELIVERY

1. Subject to a different provision on an individual case basis, delivery times possibly communicated are approximate data.
2. Start of an agreed upon delivery time requires clarification of all technical questions. The delivery time does not start before the customer has complied with its obligations to cooperate in this respect.
3. An agreed upon delivery time does not start in the case of an agreement of an obligation of advance performance by the customer such as, for example, a down payment, before the customer has not complied with the obligations advance performance incumbent upon it.
4. Zinser shall be entitled to the defence of lack of performance of the contract.

5. An agreed upon delivery time is subject to complete delivery in time by our contractual partners (reservation regarding availability of supplies).
6. The delivery time is extended adequately in the case of Force Majeure with the duration of the impediment and an adequate start-up time having to be taken into account when determining the new delivery time. Cases of Force Majeure are also events unforeseeable at the time of conclusion of contract such as shortages of energy and raw material, strikes, lockouts, administrative measures, terrorist acts and war. Zinser will promptly inform the customer on the existence of Force Majeure and the probable end of this circumstance. If the condition of Force Majeure lasts more than three months without interruption or if the delivery date is extended due to several circumstances of Force Majeure by more than four months, not only the customer but also Zinser is entitled to withdraw from contract. In the case of Force Majeure the assertion of claims for damages and other claims is excluded. The obligation of counter-performance is omitted, advance payments made are reimbursed. The provisions of the present clause apply accordingly, if the circumstances occur at a subsupplier and affect the delivery to Zinser.
7. We shall be entitled to partial deliveries, if this is not unreasonable for the customer. A partial delivery is not unreasonable in particular, if the partial delivery is usable for the customer pursuant to its intended purpose, delivery of the remaining goods ordered is guaranteed and no considerable additional expenditure or additional cost is incurred by the customer due to the partial delivery.
8. Claims for damages due to non-compliance with the delivery time are based on XII.

VII. PASSING OF RISK

1. The risk of accidental loss passes to the customer with handing over (Incoterms 2010 FCA Zinser, Sulz-Glatt, Germany). Handing over to the customer is equivalent to handing over to its freight carrier or to a third party designated by it.
2. If the customer does not take delivery on the date of delivery of the goods declared ready for delivery, the risk of accidental loss passes to the customer on the date of delivery.

VIII. DEFAULT IN ACCEPTANCE; DAMAGE RESULTING FROM DELAY

1. If the customer does not take delivery of the goods in time or if it is in default of acceptance in any other manner, it owes Zinser per week started a sum in the amount of 0.5% max. of the order value and/or the value of the partial delivery but in total 5% max. of the order value and/or the value of the partial delivery.
2. The customer shall reserve the right to prove a lower damage, we shall reserve the right to prove a higher damage.

IX. PRICES; PAYMENT TERMS AND CONDITIONS; PRICE ADJUSTMENT

1. All prices are net prices and are to be understood plus applicable statutory V.A.T.
2. Unless otherwise agreed upon, payments have to be made in EUR. All other costs possibly incurred, in particular for settlement of payment, transportation, customs duties on importation and exportation, fees etc. are borne by the customer.
3. Unless otherwise agreed upon on an individual case basis, all prices are FCA (Incoterms 2010 FCA Zinser, Sulz-Glatt, Germany). Unless otherwise agreed upon, payments are due within 8 days net as from passing of risk. Payments have to be made at the registered office of Zinser at Sulz-Glatt, Germany. Cost and risk of payment shall be at the expense of the customer.
4. For the deduction of cash discount, a separate agreement on an individual case basis is necessary.
5. The acceptance of cheques and bills of exchange requires an express written agreement (Art. 3 CISG).

X. NOTIFICATION OF DEFECTS

1. The customer is obliged to examine the services rendered within ten working days as from passing of risk as to whether they are free from defects.
2. The customer is obliged to notify to us defects detected within the scope of the examination) within another week.
3. Moreover, the customer is obliged to notify defects to us which were not detectable within the scope of the examination (item 1) within one week as from actual detection.

4. Defects possibly detected have to be notified to us in written form (Art. 13 CISG). The notification must include a detailed description by means of which the suspected causes are evident as well as their effects. Upon request, appropriate documentation, in particular photos, must be made available to us.
5. If the customer does not comply with its examination and notification obligation, the service shall be deemed to have been approved, and it is not entitled to warranty claims and damage claims. This does not apply, if the defect had been fraudulently concealed by us or the exclusion would be incompatible with the provisions of a warranty (V. item 4).
6. The customer is obliged to bear the cost incurred by Zinser associated with the unjustified notification of defects which has been made culpably.
7. The deadlines of item 1 to 3 start, if we owe a documentation, only when the customer has received the documentation.
8. If between delivery and notification of a defect, a time period of two years has elapsed, the customer can no longer raise any rights associated with defects.

XI. RIGHTS OF THE CUSTOMER IN CASE OF BREACHES OF DUTY OF THE SELLER (=WARRANTY CLAIMS); STATUTE OF LIMITATIONS OF CLAIMS; RELATION TO COMPENSATION FOR DAMAGES

1. In the case of defective performance, hence lagging of the actual rendering of service behind the contractually owed service (defectiveness), the claims of the customer are based on the following provisions.
2. At first, the customer shall only be entitled to request elimination of defective performance (removal of defects) from us within a reasonable period of time. We are entitled to choose the type of elimination of defects, mainly rework or replacement delivery, by which we carry out elimination of defective performance. For the purpose of elimination of defects, the customer must grant access to the goods to us or to third parties mandated by us, and support measures which become necessary and advisable. We shall bear appropriate and required expenses of the elimination of defects with the exception of those surplus cost associated with further transportation of the goods to another place of destination than the original place of destination.
3. If we do not carry out the elimination of defects within an adequate period of time, or if the type of elimination of defects chosen by us does not result in freedom from defects, the customer shall be entitled to reduce the purchase price.
4. The customer is generally only entitled to cancel the contract, if
 - a. a fundamental breach of contract exists and
 - b. only, if the elimination of defects had not been carried out within an adequate period of time or did not result in freedom from defects.

Lit. b. must not have been fulfilled for cancellation of the contract, if the elimination of defects is unreasonable for the customer due to the circumstances of the individual case or will obviously remain unsuccessful.
5. The customer shall also be entitled to cancel the contract, if we do not render the service in the case of non-observance of the delivery time despite setting of another adequate period of time which generally must not be less than two weeks. With respect to this further deadline, VI. item 6 sentence 1 applies accordingly.
6. The customer is obliged to raise the claims according to item 2 5 within an adequate period of time. It must submit a written request to us asking us to carry out the actions (Art. 13 CISG).
7. If the non-performance of defective performance refers only to a part of the delivery, the claims pursuant to item 2 and 3 apply only to the part affected by the non-performance or defective performance. Cancellation of the entire contract (item 4 and 5) in such a case can only be made, if the incompleteness of the delivery or the delivery only partially according to contract in itself constitutes a fundamental breach of contract.
8. The above claims due to defective performance caused by inappropriate handling by the customer or non-compliance with the instructions for use are excluded.
9. With respect to the raising of damage claims due to defectiveness item 4.b. as well as item 4 sentence 2 apply accordingly. In addition XII. shall apply.

XII. LIABILITY

1. Zinser shall be liable pursuant to statutory provisions in the case of culpable breach of duty for all damages from injury to life, body or health.
2. Zinser shall be liable pursuant to statutory provisions in the case of culpable breach of essential duties of contract. The liability, however, is limited to the foreseeable damage typical for the contract, if Zinser does not infringe essential duties of contract deliberately or in a grossly negligent manner. Essential duties of contract are those duties, which are absolutely necessary in order to achieve the purpose associated with the contract, and upon the compliance of which the customer may rely.
3. Zinser shall be liable for deliberate and grossly negligent breach of duty.
4. Liability pursuant to item 3 is limited per individual case in the case of a grossly negligent breach of duty to the triple of the order value concerned. If the triple of the order value concerned is below the amount of 25,000.-- EUR, we shall be liable in the case of a specific damage in the corresponding amount up to an amount of 25,000.-- EUR.
5. Zinser shall be liable pursuant to the provisions of the applicable Product Liability Act.
6. If a contractual guarantee has been agreed upon, Zinser shall be liable according to the warranty declaration.
7. Considering the above provision item 4, we recommend to effect an additional insurance.
8. Otherwise, liability for other negligent breaches of duty or non-culpable damages is excluded.
9. Insofar as our liability is limited or excluded due to the above items, this applies also to the liability of our legal representatives and vicarious agents including our employees and staff.

XIII. SUPPORT IN CASES OF PRODUCT LIABILITY

1. The customer will not modify products with respect to safety-related aspects. In particular, it will not modify or remove existing warnings regarding dangers in the case of improper use. In the case of infringement of this duty, the customer will indemnify Zinser in internal relationship against third party product liability claims unless the customer is not responsible for the fault causing the liability.
2. If we are obliged to introduce measures, in particular for product warning or product recall, the customer will support Zinser to the best of its ability.
3. The customer will promptly inform Zinser in writing (Art. 13 CISG) on risks of which it becomes aware.

XIV. SET-OFF, RIGHT OF RETENTION

1. Set-off by the customer is only admissible with undisputed or legally determined claims.
2. To the exercise of a right of retention, item 1. applies accordingly.

XV. RETENTION OF TITLE

1. Goods supplied by us remain our property up to complete payment (goods subject to retention of title).
2. The customer is obliged to insure the goods under retention of title sufficiently against, fire, water and theft at its own expense.

XVI. APPLICABLE LAW

1. The present contract as well its conclusion is governed by the United Nation Convention on Contracts for the International Sale of Goods dated 11th April 1980 (CISG). In addition, the laws of the Federal Republic of Germany shall apply.
2. Item 1 sentence 2 applies accordingly for non-contractual claims.

XVII. COMPETENT COURT

1. Exclusive jurisdiction has the competent court at the registered office of Zinser at Sulz-Glatt, Germany.
2. Moreover, we are entitled to sue the customer at its general place of jurisdiction.
3. If the customer has its branch outside the European Union as well as outside the states of Switzerland, Norway and Iceland, all disputes between the customer and Zinser resulting in connection with the delivery of goods by Zinser will be finally resolved pursuant to the Rules of Arbitration of the German Institution for Arbitration e.V. (DIS) under exclusion of the jurisdiction of a court. Place of the arbitration

proceedings will be Stuttgart. The number of arbitrators is three. The language of the arbitration proceedings is German.

XVIII. RIGHTS OF USE

1. We grant to the customer a simple right of use in copyrights, industrial property rights and know-how to the extent as this is necessary for contractual use. Copying to other machines, systems and data processing units not mentioned in the contract is prohibited to the customer.
2. Any other use beyond such use is permitted to the customer only after our prior written approval (Section 126 BGB).

XIX. PROHIBITION OF ASSIGNMENT

The customer is only allowed to assign rights and duties from the present contract wholly or in part to third parties after our prior written approval (Art. 13 CISG).

XX. DATA PROTECTION

1. We comply with the applicable valid provisions on data protection law and will submit the employees working on the contract to data secrecy pursuant to Section 5 BDSG (Federal Data Protection Act) insofar as they have not yet been generally bound.
2. The customer can revoke its consent to store personal data at any time. Notice of revocation should be sent to Dietmar Zinser, Auchtertweg 24, 72172 Sulz-Glatt.

XXI. WRITTEN FORM REQUIREMENT

All modifications and amendments of the present AVB (international) as well as waiver of their application must be made in writing in order to be valid pursuant to Section 126 BGB. This applies also with respect to a possible waiver of the written form requirement

XXII. SEVERABILITY CLAUSE

1. If one or several provisions of the present AVB (international) or parts of any provision is or are invalid, such invalidity does not affect the validity of the remaining provisions or of the contract as a whole.
2. The parties engage themselves to agree amicably on a valid provision instead of the invalid provision which from an economic point of view comes closest to the invalid provision.
3. Item 1 and 2 apply accordingly in the case of a loophole.