

**General Terms and Conditions of Business (GT&Cs)  
of ZÜBLIN Timber GmbH  
for delivery transactions with companies  
(including contracts for the supply of labour and materials)**

§ 1 Application of these GT&Cs

These GT&Cs shall apply to all deliveries and services rendered by us, except where otherwise expressly agreed upon; they shall apply exclusively to the extent the customers concerned are business owners, legal entities under public law or special funds under public law within the meaning of § 310 (1) *BGB* [German Civil Code]. These GT&Cs shall not apply in relation to consumers.

Deviations, supplements or verbal collateral agreements relating to these GT&Cs shall apply only if confirmed by us in writing. In particular, this shall apply to agreements with our representatives and in-field employees.

These GT&Cs shall also apply to all future contracts with our customers, to the extent the transactions concerned are legal transactions of a related nature.

Terms and conditions of business of the customer that conflict herewith shall apply only to the extent we have expressly consented thereto in writing. Acts of performance on our part shall not constitute consent to, or approval of, the customer's terms and conditions of business.

§ 2 Conclusion of the Contract, Content of the Contract

Our offers shall be subject to change without notice. We, for our part, shall be under no obligation to accept unsolicited orders from the customer if such orders are to be regarded as offers under § 145 *BGB*.

A contract shall not be brought about until the order placed by the customer has been acknowledged by us in writing. This shall also apply to collateral agreements, assurances and subsequent contract amendments.

All offer documents, calculations, illustrations, catalogues, drawings, etc. made available to the customer shall remain our property. The customer shall, of its own accord, promptly return these if a contract is not brought about. They shall not be passed on, published or copied without our written approval. Copyrights to the technical representations sent by us shall remain with us.

The customer shall promptly check our order acknowledgement and the documents relating thereto as to whether they are complete and whether the number of units of the respective type, measurement specifications, etc. are correct. The same shall apply to final drawings sent.

The content of the contract documents shall be deemed properly and fully accepted, unless amended final drawings are returned, or change requests are made in writing, within eight days of receipt of the contract documents at the customer. The date when we receive written notification shall be decisive for the timeliness of change requests.

If our offer includes the performance of work (assembly, installation, etc.), the customer shall prepare the site in order to enable the work to be carried out without hindrance. The customer shall, free of charge, enable us to use scaffolding as well as connections for electrical tools and provide us with a supply of electricity and water. Neither stemming and closing of holes and slits nor auxiliary plastering work shall be part of the order. Such work shall be carried out only under a separate order and for a charge.

Parts delivered by us shall be stored by the customer in a dry place protected against the effects of the weather and against damage. Unless otherwise agreed upon in the contract, the customer shall carry out unloading work at its own expense. Fixtures already existing shall be protected by the customer against damage.

The customer shall ensure that assembly is possible by the date agreed upon with us, and in particular that all necessary preliminary work has been completed. No later than two weeks before the set date, the customer shall confirm in writing that assembly on this date will be possible. If the aforementioned prerequisites are not met, we shall be entitled to refuse to begin assembly work.

Assembly work shall be deemed accepted after a period of twelve business days following written notification of completion of the service has expired or after a period of six business days following the commencement of use has expired. This shall not apply if the customer lodges in writing justified defect-related complaints within the aforementioned period. The date when we receive such complaint shall be decisive for the timeliness of the complaint.

The customer shall sign and return to us an acceptance certificate after the assembly work has been completed and the service has been formally accepted. Parts that cannot yet be firmly installed before assembly ends may be handed over to the customer. These parts shall be specifically noted in the acceptance certificate. Employees deployed by us for assembly work shall not be authorised to submit contractual declarations, particularly not in connection with formal acceptance.

§ 3 Delivery, Passage of Risk, Execution

The delivery shall encompass only the services mentioned in our order acknowledgement.

Scheduled dates for delivery or execution, as well as scheduled periods shall be subject to express agreement with us. Such periods for delivery or execution shall begin on the date of the order acknowledgement, but not before all commercial and technical prerequisites for the execution of the order have been unambiguously specified, in particular not before the drawings submitted have been approved, and any agreed down payment has been received. Furthermore,

the scheduled periods shall not begin as long as the customer has not fully submitted the documents, approvals, clearances, etc. to be obtained by the customer. The defence of non-performance of the contract shall remain reserved.

The customer shall promptly inform us of all known circumstances that could jeopardise adherence to scheduled dates.

If the customer defaults on taking delivery or culpably breaches any other duties to cooperate, we shall be entitled to demand compensation for the damage incurred upon us as a result thereof, including any extra expenses. The right to assert further claims shall remain reserved.

Notwithstanding our rights arising from default on the part of the customer, the agreed delivery and execution periods shall be extended by any period during which the customer fails to meet its obligations in relation to us. These periods shall be appropriately extended if circumstances that prevent or unreasonably hinder the timely performance of the contract occur after the contract has been concluded, to the extent it was not possible to avert such circumstances without fault despite the diligence to be reasonably expected in the circumstances. In particular, this shall include war, traffic disruptions, disruptions to business, industrial dispute, official interventions, delay in the delivery of raw materials and building materials needed by us, shortage of energy, force majeure, or the like.

If delivery or execution subsequently becomes impossible for us as a result of such impediments to performance, or if such impediments to performance cannot be eliminated within a reasonable period, we shall be entitled to rescind the contract. In such case, the customer shall be released from its duty to perform. Further claims of the customer are hereby excluded.

In all further and other respects, claims of the customer on account of default in delivery or performance, or impossibility of delivery or performance, shall be limited to a maximum of 12% of the invoiced value of the goods or service in respect of which we are in default or in respect of which delivery or performance has become impossible due to fault on our own fault. This limitation of liability shall not apply in cases where we are mandatorily liable by law on account of wrongful intent or gross negligence.

A scheduled delivery period shall be deemed met if the customer has been notified that the goods are ready for shipment, but, through no fault of our own, the goods cannot be sent off in due time. Scheduled delivery and execution periods shall also be deemed met if the system has been put to use although individual deliveries or services will not be carried out until a later date. Sub-deliveries shall be permissible.

Unless otherwise expressly agreed upon, delivery and transportation shall take place at the customer's risk. This shall apply even if carriage-paid delivery or installation is owed under the contract.

Notwithstanding our rights arising from default on the part of the customer, the risk shall pass to the customer once the consignment has been handed over to the person carrying out the transportation. To the extent the delivery is delayed for reasons attributable to the customer (default in making a payment or in taking receipt of the goods), the risk of accidental destruction or accidental deterioration of the items purchased shall pass to the customer when the customer defaulted on making a payment or on taking delivery of the goods. In such case, we shall be entitled to store the goods at the customer's expense and risk.

At the customer's request, insurance against damage or loss in transit or against breakage shall be taken out in its name and on its account.

Any damage claims on account of damage in transit, etc. shall be asserted by the customer directly against the carrier or, to the extent possible, against the insurance company.

The goods shall be packaged as customary in this branch of industry, to the extent packaging is possible. Unless otherwise agreed upon by contract, packaging shall be charged at the lowest price and be non-returnable.

If, at our request, packaging material is returned in faultless condition carriage-paid, a credit note for a sum equal to 2/3 of the value charged shall be issued to the customer. Claims arising from defects in the packaging shall not be assertable against us if the goods concerned were packaged in the manner customary at our company and with due diligence.

§ 4 Prices, Payment Terms

Only the prices quoted in our order acknowledgement shall be decisive. Additional services shall be charged separately.

Unless otherwise expressly agreed upon, all prices for deliveries ex works shall apply exclusive of packaging, shipping charges, freight charges, transportation charges and customs duties. These charges shall be invoiced separately. Carriage, storage and similar charges shall likewise be borne by the customer. If delivery and assembly have been agreed upon, the prices shall, unless otherwise provided for in the contract, apply carriage-paid to the building site, including assembly costs.

The prices are net prices exclusive of value-added tax, which shall be added at the respective valid statutory rate.

The agreed prices shall apply on condition that the delivery or service ordered is formally accepted in its entirety. If only part of an order is placed or only part of a contract is taken on (cancellation of part of the contract), we shall be entitled to invoice extra costs resulting therefrom.

Invoices shall be due, without any deduction, within thirty days of the invoice date. If instalments or part payments have been agreed upon, these shall be payable within eight days of receipt of the letter requesting payment. Payments shall be made exclusively into our bank account specified in the order acknowledgement. The timeliness of payment shall depend upon the point

in time on which the amount is credited to our bank account. The deduction of a cash discount shall be permissible only if specifically agreed upon in writing.

If the ordering party fails to make an agreed instalment payment or part payment in due time despite a grace period having been set, we shall be entitled to discontinue the delivery or service or, at our option, rescind the contract. If the contract is rescinded, we shall be entitled to claim compensation for the damage incurred upon us, including any loss of profit, in respect of the part of the order that is not carried out.

In the event of default in payment, we shall be authorised to charge interest at the rate of 8% above the respective base interest rate. The right to assert a claim for higher default-related damage shall remain reserved. The customer shall remain free to prove that no default-related damage has been, or will be, incurred upon us, or that a lower damage has been, or will be, incurred upon us.

We shall be under no obligation to accept bills of exchange or cheques. Their acceptance shall be subject to clearance and, by specific agreement, discountability without any guarantee being given in respect of timely honouring and protestation. Credits concerning bills of exchange or cheques shall be subject to receipt and to the deduction of all expenses, the value date being the day when we definitively have the equivalent amount at our disposal.

#### § 5 Non-performance, Compensation for Non-performance, Set-off, Assignment

If we become aware of circumstances that seriously cast doubt upon the customer's credit-worthiness, and the customer fails to dispel these doubts, we shall be free to carry out further deliveries and services only on the basis of advance payment. Additionally, we may, without rescinding the contract, temporarily prohibit the selling-on and processing of the goods already delivered. Notwithstanding the foregoing, we shall reserve the right to rescind the contract or demand compensation for non-performance.

If compensation for non-performance can be claimed, our compensation claim shall amount to a flat rate of 20% of the agreed price. The right to assert a further compensation claim shall remain reserved. The customer shall be free to prove that no damage, or a lower damage, was incurred upon us.

We shall be entitled to assign our compensation claims.

Set-off against our claims shall be possible only on the basis of counter-claims that have been acknowledged by us or, alternatively, have been determined by a final and non-appealable court judgement. Otherwise, they shall be excluded. A right of retention on the part of the customer is hereby excluded, unless it is based on the same contractual relationship. Generally, the right to assert a right of retention shall be excluded in business transactions with traders who have full merchant status.

Any transfer of the customer's rights and duties arising from the contract concluded with us shall require our written consent. The assignment of claims against us to third parties is hereby excluded. § 354a *HGB* [German Commercial Code] shall remain unaffected.

#### § 6 Warranty

We hereby warrant that materials and workmanship shall be faultless in accordance with the generally accepted rules of engineering. All information provided concerning our products, in particular the illustrations, drawings, weight specifications, measurement specifications and performance specifications contained in our offers and printed material, shall be regarded as approximate average values. They shall not constitute a guarantee of specific qualities, but shall constitute descriptions or designations of the delivery or service.

With the exclusion of further claims, we shall be liable as follows for any defects in the delivery or service, including any lack of features that have been guaranteed:

Warranty claims of the customer shall be conditional upon the customer having properly met its obligations to inspect the goods and give notification of defects in accordance with § 377 *HGB*.

We shall always be given the opportunity to render supplementary performance within a reasonable period. At our option, we shall, free of charge, repair or replace parts that, within six months, turn out to be unusable or considerably impaired in their usability due to a circumstance preceding the passage of risk, in particular due to faulty design, poor quality of building materials, inadequate execution, etc. In this respect, we shall bear only the costs necessary for rendering supplementary performance.

Defects shall be reported to us in writing without undue delay, but no later than within seven days, after receipt of the goods at the destination. Hidden defects shall be reported to us in writing within the same period after they have become visible. If these periods for giving notification of defects are not met, all claims of the customer shall lapse.

If we fail to meet our duty to rectify defects within a reasonable period despite having received at least two requests to do so, or if rectification or replacement fails at least twice, the customer may, with the exclusion of further claims, demand a reduction in the fee or, alternatively if it would be unreasonable to invoke this right to a reduction in the fee, cancellation of the contract.

If it has been necessary to carry out extensive checks as a result of an unjustified defect-related complaint, the customer may be invoiced for the cost of these checks.

Returning of goods shall require our express, written consent and shall occur at the customer's expense and risk.

No warranty shall be provided for defects or damages caused by the following reasons: unsuitable or improper use of the items delivered, incorrect assembly or commissioning by the customer or third parties, normal wear and tear, incorrect or negligent handling, excessive use, use of unsuitable operating resources, non-fulfilment of the constructional requirements, chemical,

electrochemical or electrical influences, unless we are at fault for these. If the customer or a third party improperly carries out repair work or alterations, defect-related claims in respect thereof and in respect of the consequences resulting therefrom shall likewise be excluded.

Moreover, no warranty shall be provided for delivery parts that are subject to a greater degree of normal wear and tear as a result of the qualities of their materials or the way in which the parts are used.

As colours/dyestuffs can change in the course of time, the warranty shall, furthermore, not extend to any changes of colour.

The warranty period for replacement deliveries and repairs shall be only three months. However, it shall run at least until the original warranty period for the delivery or service concerned has expired.

Parts replaced shall become our property and may be taken possession of by us.

#### § 7 Compensation Claims of the Customer

Damage claims of the customer shall, to the extent this is permissible by law, be excluded regardless of the legal nature of the claim asserted. In particular, this shall apply to all claims based on *culpa in contrahendo* or breach of subsidiary duties and, in particular, to claims arising from producer liability under § 823 *BGB*.

This exclusion shall not apply to the extent we are mandatorily and inalienably liable for compensation on account of wrongful intent or gross negligence or in cases where specific features have been guaranteed.

This exclusion shall likewise not apply in cases of damage arising from mortal injury, physical harm or health damage, to claims of the customer under § 1 or § 4 *Produkthaftungsgesetz* [Product Liability Act] or in cases of initial inability to perform or impossibility attributable to us. To the extent our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, personnel, in-field employees and authorised agents.

Claims of the customer on the basis of producer liability shall become statute-barred one year after the customer became aware of or, through gross negligence, failed to become aware of the circumstances that gave rise to the claim and the identity of the party liable for compensation, except in cases where we are at fault owing to wrongful intent or gross negligence and except where the damage concerned arose from mortal injury, physical harm or health damage.

#### § 8 Retention of Title

The items delivered by us shall remain our property until all claims arising from the business relationship with the customer have been fully paid, including all subsidiary claims, and the bills of exchange and cheques presented in this connection have been honoured. This shall also apply to all future deliveries, even if we do not always expressly refer hereto.

The customer shall treat the purchased items with care as long as title thereto has not yet passed to the customer. In particular, the customer shall, at its own expense, adequately insure these against theft and fire. If servicing or inspection work needs to be carried out, the ordering party shall carry this out in due time at its own expense.

The customer shall be expressly permitted to sell on the items delivered under retention of title. However, it shall do so only in the ordinary course of its business and only as long as it is not in arrears with its payments. By concluding the contract, the customer shall already assign to us the claims ensuing from any sale of the goods that are under retention of title, including all subsidiary rights along with any profit margin and any assembly charges. We hereby accept this assignment.

The customer shall be authorised to collect on our behalf, but on its own account and at its own risk, the claims hereby assigned to us in advance, but only as long as the customer meets in accordance with the contract its obligations in relation to us. We may revoke this authorisation at any time. At our request, the customer shall give the third-party debtors concerned notification of this assignment and provide us with the information and documents necessary for asserting our rights.

Any reworking, processing or remodelling of the goods that are under retention of title by the customer shall take place on behalf of us as the manufacturer within the meaning of § 950 *BGB*, but without this placing us under any obligation. The goods processed shall be deemed to be goods under retention of title within the meaning of these GT&Cs. Therefore, the customer's expectant right shall continue to exist in respect of the item remodelled. If the goods delivered by us are processed, combined or inseparably mixed with other items not belonging to us, we shall acquire joint title to the new item in the ratio of the objective value of the goods under retention of title delivered by us in relation to the value that the other items used have at the time of processing, combining or mixing. By concluding the contract, the customer shall already assign to us any rights of title or joint title resulting to the customer in respect of the new item and shall hold the new item in safekeeping for us with commercial diligence and care. The rights of joint title ensuing from the foregoing shall be deemed to be goods under retention of title within the meaning of these GT&Cs.

If the goods delivered by us are combined or inseparably mixed with other movable items to form one single item, and if the other item is to be regarded as the main item, it shall be deemed agreed that the customer shall transfer the rights of joint title to us on a pro-rata basis, to the extent the customer owns the main item.

Any pledging or assignment as security in respect of the goods that are subject to our rights shall be excluded, unless we have given our express consent. If the performance, collection or securing of our claims is jeopardised as a result of our security having been attached by third

parties or as a result of any other third-party intervention, the customer shall promptly inform us thereof. In this respect, we shall be provided with all data that we need in order to be able to enforce our security in relation to third parties. To the extent such third party is unable to reimburse us for the court and out-of-court costs in connection with an action under § 771 ZPO [Code of Civil Procedure], the customer shall be liable for the loss incurred upon us.

If the delivered items that are subject to retention of title are jeopardised by third parties, we shall, without having to rescind the contract, be entitled to repossess the goods for safekeeping, at the customer's risk and expense, until our claims have been fully settled.

If the customer is in arrears with a payment arising from the business relationship, we shall be entitled to reclaim the goods that are under retention of title and realise these by way of compulsory auction, or by selling them on the open market, in order to cover our claims. The proceeds from such realisation shall be used to cover our claims, including the cost of any legal action and the cost of realisation. Any surplus proceeds remaining shall accrue to the customer. Repossession of the goods shall not be deemed to be rescission of the contract.

If the value of the security made available to us exceeds our claims by more than 20% in total, we shall, at the customer's request, release security of our choosing in the value of the amount exceeding this percentage.

#### § 9 Data Protection

We hereby point out that we shall store personal data relating to our business relationship with the customer, and that we shall also forward such data to companies of Ed. Züblin AG that are associated with us and to Ed. Züblin AG itself. The customer's consent in this connection shall be deemed granted, unless this is objected to in writing within 6 days of receipt of the order acknowledgement.

#### § 10 Place of Performance, Place of Jurisdiction

The place of performance for all obligations arising from the business relationship shall be Aichach, unless otherwise specified in the order acknowledgement.

If the customer is a trader with full merchant status, a legal entity under public law or a special fund under public law, Aichach shall be the agreed place of jurisdiction. Aichach shall be deemed to be the place of jurisdiction even if the customer transfers its place of residence or habitual abode abroad after the contract has been concluded, or if its place of residence or habitual abode is not known at the time when an action is brought.

The EU Commission provides an online platform for the online resolution of disputes (ODR website) relating to consumer matters. You can access this website via the Internet at <http://ec.europa.eu/consumers/odr/>

#### § 11 Final Provisions

The substantive law of the Federal Republic of Germany, excluding UN sales law (Convention on the International Sale of Goods) and the standards referring to other legal systems, shall apply.

If any of the provisions set forth hereinabove is ineffective or is declared ineffective by means of a final and non-appealable court judgement, the remaining provisions shall remain unaffected thereby. The parties to the contract hereby agree that any ineffective provision is to be replaced with a provision that most closely reflects the economic purpose agreed upon or pursued.