

GENERAL TERMS AND CONDITIONS

ZIRKONZAHN GMBH/SRL

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GENERAL TERMS AND CONDITIONS

1. PURPOSE AND SCOPE

These General Terms and Conditions (hereinafter also referred to as “GTC”) shall apply to all trade relations between Zirkonzahn GmbH (hereinafter referred to as “Zirkonzahn” or “Seller”) and the Client (hereinafter also referred to as “Buyer”) with regard to all products and/or services offered/produced/distributed by Zirkonzahn via all distribution channels including the internet.

This version (January 2020) cancels and replaces all previous versions.

These General Terms and Conditions of Sale shall prevail over any other terms and conditions of purchase issued by the Buyer even if no specific objection to the application of the former has been raised.

No alteration or modification of these Terms and Conditions shall be valid and binding unless made in writing and signed by a duly authorised representative of Zirkonzahn.

In the case of written agreed modifications, these GTC remain valid between the parties and in no case will these modifications invalidate the legal force of these Terms and Condition to which they must be adapted.

2. CONTRACT CONCLUSION

Every order is considered an irrevocable order from the Buyer and is subject to acceptance by the Seller, which must be considered rejected if the Seller has not executed or only partially executed this order. By the acceptance of the offer by the Buyer or the confirmation of the order by Zirkonzahn, howsoever given, these General Terms and Conditions become applicable.

The offers, which are made by Zirkonzahn agents, representatives or other sales staff, are not binding on Zirkonzahn unless confirmed in writing by the same.

The offers for sale formulated by Zirkonzahn are valid for 30 days from the date of issue and relate only to the entire delivery offered.

After this period of time, the offer loses all validity.

The sale offers do not include in any case: the supply of manuals, trainings, launching assistance, technical support and other similar services, except for cases where such services are explicitly included in the offer.

The contract over the internet is concluded when the Buyer accepts the General Terms and Conditions and the respective standards by clicking on “Accept” in the webshop.

The Client assumes the responsibility for the truth of the information given by him and acknowledges the right of Zirkonzahn to obtain any references or information about him that are necessary for the proper execution of the service, in compliance with the directives regarding the processing of personal data, defined in the General Data Protection Regulation (EU) 2016/679 of May 25, 2018.

With the confirmation of the order by Zirkonzahn, the contract between the contracting party (the subject of this contract) and Zirkonzahn is considered concluded.

3. TECHNICAL DATA AND DOCUMENTS RELATING TO THE DELIVERY

The dimensions, composition, weights, prices, performances, colours and other product-related data which is illustratively shown in catalogues, price lists, brochures or other documents, including also samples, are only considered indications and are not binding, except in cases where they are indicated as such in the offer or in the confirmation of the offer.

Zirkonzahn expressly reserves the right to change the details of construction/composition of their products at any time. In the event that there are substantial modifications (such as changes concerning the mode of use, the installation mode, the interchangeability of the products), the Buyer is notified in advance.

4. PRICES – TERMS OF PAYMENT

The prices of products/services refer to the price list which is valid at the time the Buyer accepts the offer or Zirkonzahn confirms the order.

Zirkonzahn reserves the right to change the current price list at any time upon written notice to the Buyer, if costs for raw materials, personnel

expenses or other factors should arise, which entail a substantial increase in production costs. The product prices are always indicated ex works (ex works Incoterms 2010 ICC), subject to any divergent written agreement between the parties. The payments must be made in accordance with the corresponding indications in the offer or in the confirmation of the order. Unless otherwise specified in the aforementioned documents, the payment term advance payment applies. All payments and other amounts that are owed to Zirkonzahn for some title, must be made at the registered office of Zirkonzahn.

Any payments to Zirkonzahn agents, representatives or other sales staff are considered not effected and do therefore not release the Buyer from his obligation as long as these payments have not been received by Zirkonzahn.

Unless otherwise agreed, the payments must be made in Euro.

The prices indicated in other currencies than Euro may be subject to fluctuations in relation to the current exchange rate.

Any delay or irregularity of payments by the Buyer entitles Zirkonzahn to:

- (a) stop deliveries of any type, the technical support and other services, even if they are not directly related to the delayed or irregular payment, until the outstanding invoices have been fully paid;
- (b) change the payment terms and discounts for future deliveries, demand advance payment or additional warranties;
- (c) demand default interest in the amount of the current statutory interest rate from the date the payment is due and without the need for a further formal warning, which are required according to the legislative decree no. 231/2002 and the subsequent integrations for commercial transactions. Zirkonzahn reserves in any case the right to demand compensation for any additional damages.

Furthermore, in these cases, the amount is due immediately, regardless its cause. The Buyer is obliged to effect the immediate, complete payment even in the case of exceptions, conflicts or controversies that can only be clarified after the payment of the liabilities has been made.

The Buyer hereby waives in advance to demand a settlement of any credit of Zirkonzahn, howsoever accrued.

5. DELIVERY

Unless otherwise agreed, the delivery of the products is effected ex works (ex works Incoterms 2010 ICC). Hence, all risks related to the delivery are transferred to the Buyer as soon as the products are forwarded to the carrier. The delivery conditions are non-binding and indicated in working days. Thus, Zirkonzahn assumes no responsibility for any damage resulting from early or delayed, partial or complete delivery. The Buyer is obliged to verify whether the products ordered have been delivered in perfect condition.

If the Buyer has any unpaid, overdue items towards Zirkonzahn, even if they concern other deliveries, Zirkonzahn can retain the ongoing delivery until all unpaid, overdue items are settled by the Buyer.

Regarding the quantities delivered, Zirkonzahn is allowed the quantity tolerances customary in the industry. Unless agreed otherwise, partial deliveries are allowed.

If for reasons Zirkonzahn is not responsible for, the Buyer or the carrier (if requested by the Buyer) refuse to accept the products, Zirkonzahn can – after having notified the Client – charge the Client for all resulting costs.

6. JUSTIFIABLE DELAYS

Zirkonzahn is not responsible for a delay in delivery in relation to the contractually stipulated obligations if the delay is caused directly or indirectly by:

- (a) reasons which are beyond Zirkonzahn's control and/or resulting from force majeure;
- (b) actions (or omissions) of the Buyer, including the non-transmission of information or confirmations necessary for Zirkonzahn to meet its own obligations and to carry out the delivery of the products;
- (c) Non-compliance with the terms of payment by the Buyer;
- (d) impossibility to obtain materials, components or services necessary for executing the work and delivering the products.

In the event that any of the aforementioned assumptions is true, Zirkonzahn will notify the Buyer and communicate the delay or the new date of delivery. If the delay of Zirkonzahn is caused by actions or omissions of the Buyer, or by other contractors or suppliers of the buyer, Zirkonzahn is also entitled to an appropriate price adjustment.

7. RETENTION OF TITLE

Title for the delivered products shall not pass to the Buyer until Zirkonzahn has received the payment in full. Samples and/or models of consumables and equipment, which are provided by Zirkonzahn, must not be used for commercial purposes and remain the property of Zirkonzahn.

8. LIABILITY AND TECHNICAL STANDARDS

The products offered by Zirkonzahn comply with the applicable Italian laws and technical standards. Accordingly, it is the responsibility of the buyer to check for any differences between the Italian standards and the standards that apply in the country of destination, and he keeps Zirkonzahn indemnified against all liability.

Zirkonzahn guarantees the features of its manufactured/distributed products exclusively in relation to the use, destination, application, tolerances, etc. expressly indicated.

9. COPYRIGHT

Zirkonzahn reserves all rights, including those of translation, reprinting and reproduction of the advertising material, the manuals, the training documentations, the name and/or logo Zirkonzahn® and other events.

No part of the advertising material may – not even in summarised form – be reproduced in any way, or be processed, copied, distributed or published using electronic systems, without the written permission of Zirkonzahn.

10. PATENT RIGHTS AND INTELLECTUAL PROPERTY

In the event that third parties put forward any claims, the Buyer must notify Zirkonzahn immediately and offer all the information and support necessary for contesting the claim.

This does not apply to those products which were produced according to a project, drawing, instruction and/or technical specifications of the Buyer, for which Zirkonzahn assumes no responsibility with regard to a possible infringement of intellectual property rights of third parties, for which only the Buyer is responsible.

11. WARRANTY

Zirkonzahn guarantees that the delivered products correspond in terms of quality and type to those which are stipulated in the contract and that they are free from defects which would make them unsuitable for their purpose.

The warranty is limited to those production defects which are due to material deficiencies or problems in the manufacture and production by Zirkonzahn.

The warranty does not cover defects due to normal wear of the products for parts which are subject to rapid and continuous wear.

Prerequisite for the validity of the warranty of the products purchased is the complete payment thereof. Unless otherwise agreed in writing, the warranty period is 12 months (from the date of invoice) for standard products from the catalogue.

The warranty aforementioned is only valid if the products were stored properly and used in accordance with the instructions and technical data sheets provided by Zirkonzahn, not repaired, modified or altered without a written approval by Zirkonzahn and provided that the defects are not due to specific incidents (e.g. electrical interference or moisture). Excluded from the warranty are also any damages caused by electrical fluctuations due to the absence of a suitable voltage stabiliser.

The Buyer is obliged to verify the compliance of the products and the absence of defects within 10 days from the date of delivery – in any case prior to use. The Buyer must report all non hidden flaws or defects to Zirkonzahn in writing within 10 days, whereas any hidden defects and/or defects affecting the function (which can thus be seen only when using the product) within 10 days after discovery of the defect and in any case not after the expiration of the warranty period. Any claims have to be communicated to Zirkonzahn in writing, according to the instructions and, in the manner as prescribed by the same, by reporting the defects and non-conformities in detail. The warranty ceases to be effective if the Buyer does not allow all reasonable inspections/maintenance services which are provided by Zirkonzahn and if he does not return the defective products within 10 days after a request by Zirkonzahn.

If the Buyer indicates the defect properly, Zirkonzahn has the choice to:

- (a) repair the defective products;
- (b) send the same products in quantity and quality to the Buyer without charging additional costs (DAP Incoterms 2010);
- (c) issue a credit of the same amount as the value of the invoice of the returned products.

In these cases, Zirkonzahn can demand the return of the defective products, which thus become property of Zirkonzahn. Unless otherwise agreed, Zirkonzahn will bear any costs related to the technical intervention.

In the event that the defects are not attributable to Zirkonzahn, the costs for repair and replacement of the products are charged to the Buyer's account. The warranty specified in this article is sufficient and replaces all legal warranty obligations concerning defects and compliance and excludes any other possible responsibility of Zirkonzahn, whatever its origin, in relation to the delivered products. In particular, the Buyer can make any further claims for damages and in no event can Zirkonzahn be held liable for indirect or consequential damages.

12. DAMAGES

The responsibility of Zirkonzahn, whether it is due to the execution or non-execution of the contract, to the warranty, to tort or to objective liability/responsibility, can by no means exceed the value of the product to which the liability refers. In no event can Zirkonzahn be made accountable for lost profits or loss of income, neither because of non-usage or technical standstill of the product or any associated equipment, nor because of complaints of the Buyer and/or third parties in relation to said damages or for any indirect or consequential damages.

13. CONFIDENTIAL INFORMATION AND DATA

The Buyer and the Seller acknowledge that each party may disclose confidential information regarding their activities to the other. Each contracting party undertakes to treat the confidential information as such and to not disclose the content to third parties, and to use this information only for the purpose stipulated in the contract, and to return the documents containing confidential information upon simple request of the other party

14. OTHER

The assignment of rights and obligations of the contract by the Buyer is invalid unless Zirkonzahn has given his consent in writing beforehand. Zirkonzahn has the right to transfer the claims arising from the contract at any time to third parties.

The complete or partial invalidity of one or more clauses of these GTC has no effect on the validity of the remaining clauses.

It is agreed that a possible tolerance for violations of these GTC shall under no circumstances be interpreted in a way that Zirkonzahn waives the exercising of its legal or consequent rights.

These General Terms and Conditions do not limit the general customary law to which both parties are entitled. For all matters which are not covered directly by these GTC, the parties expressly refer to the applicable law.

15. APPLICABLE LAW AND JURISDICTION

These GTC and the associated supply contracts are regulated by the Italian law. The exclusive place of jurisdiction for all disputes regarding or relating to the contracts to which these GTC apply, shall be Bolzano. The previous provision notwithstanding, solely Zirkonzahn is free to choose the location of the Buyer as place of jurisdiction. The application of the UN Sales Convention is expressly excluded.

For any doubt or uncertainty, please contact Zirkonzahn: info@zirkonzahn.com, (Tel. 0039 0474 066660).

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