

## General Terms and Conditions (GTC)

between

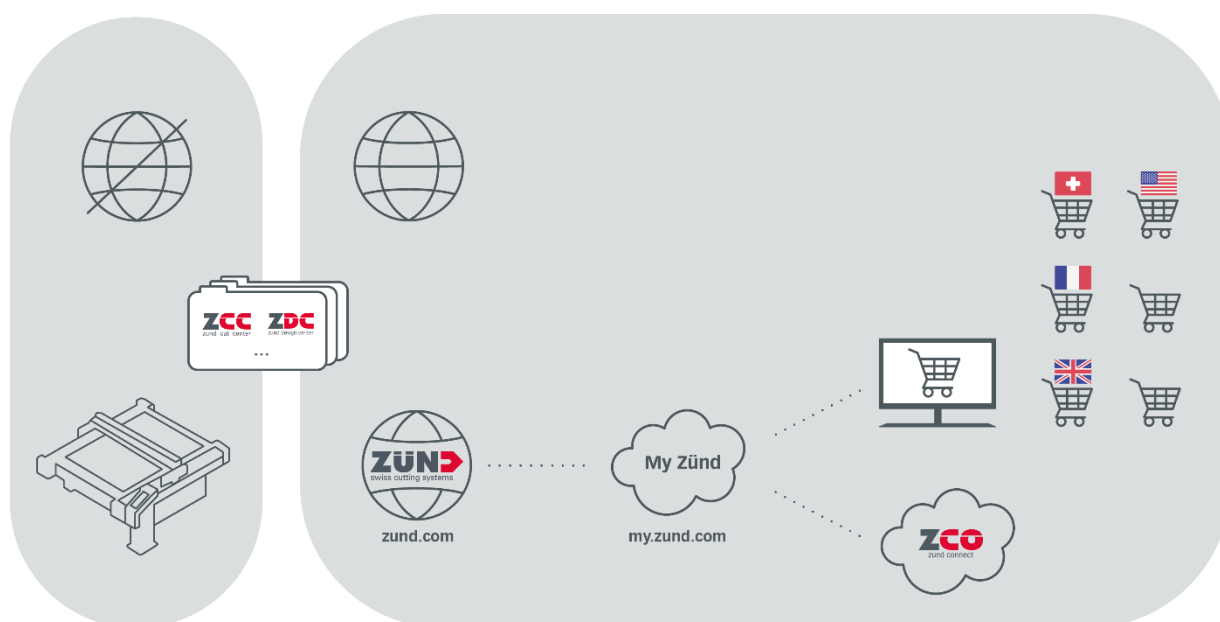
ZÜND SYSTEMTECHNIK AG, Industriestrasse 8, CH-9450 Altstätten, [privacy@zund.com](mailto:privacy@zund.com) and other companies of the Zünd Group

(hereinafter referred to as **Zünd**)

and

**the customer**

### 1. Initial Situation



1. Zünd sells and distributes goods (cutting systems, so-called cutters, software, accessories, consumables, etc.) and services both by analogue (hereinafter **offline contracts**) and by digital trade on my.zund.com (hereinafter **online contracts**).
2. With **my.zund.com**, Zünd offers an additional digital access point. My.zund.com is being continuously developed with the aim of a mutual exchange of information, such as software licence management or listing of all products purchased from Zünd. Furthermore, it is also possible to order products via the web shop.
3. The Zünd cutters collect and transmit valuable information to Zünd in order to offer the customer sustainable added value (e.g. by means of cutter monitor and cutter alarms) and to ensure the further development of the product. This information is available on my.zund.com in the **Zünd Connect** area to the extent that it corresponds to the licensing level selected by the customer. The customer also has the option of preventing this transmission. Further information on Zünd Connect can be found in the Zünd Connect Framework, which is published on the Zünd website and can be accessed via the following link: [zuend-connect-framework](#)

### 2. Scope and other contractual documents

4. These GTC apply without restriction to any type of contract that Zünd enters into as a supplier of goods or services, regardless of whether they are concluded offline or online.
5. The provisions of these GTC apply, insofar as they concern them, vis-à-vis the customer and third parties (e.g. independent resellers, service partners, etc. of partners and Zünd) and between the customer and third parties, even if third parties are not explicitly named in the respective provision.
6. Ordering the goods or services means the unconditional acceptance of these GTC by the customer or the third party. In the case of an online contract, acceptance is effected by ticking the corresponding box.
7. When licensing software, the customer accepts the End User Licence Agreement (EULA) including the Zünd Connect Framework regarding the use of Zünd Connect upon installation. These provisions take precedence over the provisions of these GTC due to their special nature.

8. The use of information and personal data is governed by the Zünd Privacy Policy. The Zünd Privacy Policy is an integral and binding part of these GTC.

### **3. Formation of the contract**

#### **A) Offers**

9. Only registered companies can be customers and contractual partners of Zünd.
10. Quotations or offers by Zünd are only binding if accepted by the customer immediately.
11. Details in price lists, on my.zund.com and in other sales channels and publications of Zünd are only binding if they are expressly assured in writing. Sales prices and/or products are subject to change without prior notice. Zünd may change the range of services or discontinue the provision of services at any time.

#### **B) Content of the contract**

12. The content of the contract is determined on the basis of Zünd's written order confirmation.

#### **C) Offline contracts**

13. The offline contract is concluded by written signed order confirmation from Zünd. If Zünd requires a counter-signature by the customer or the third party, the contract is only concluded with this. The customer's signature must reach Zünd within three working days, otherwise the delivery date may be delayed.

#### **D) Online contracts**

14. The online contract is concluded by written order confirmation from Zünd. The customer is obliged to provide complete and correct information required during the order process.

### **4. Prices and payments**

#### **A) Prices**

15. Unless expressly agreed otherwise, all prices of Zünd are net ex works. All other ancillary costs, namely those for packaging, delivery, freight, insurance, export and import costs, value added tax and other taxes, fees, levies, customs duties and certifications shall be borne by the customer.

#### **B) Currency**

16. The customer shall fulfil its payments in the currency specified in the written order confirmation or, if nothing is specified therein, on my.zund.com.

#### **C) Terms of payment**

17. The terms of payment stated in the written order confirmation or, if nothing is mentioned there, the terms of payment stated on my.zund.com shall apply in each case. If the customer fails to pay, Zünd reserves the right to discontinue or not to provide its services.
18. In the case of orders for payment in advance, the customer shall pay for the goods in advance without deduction of discounts, charges, taxes and fees. If the advance payment is not made within 14 days (receipt of payment) after the order by the customer, the order shall lapse and the corresponding data shall be deleted.

### **5. Reservation of ownership**

19. The delivered goods remain the property of Zünd until payment in full, including all ancillary claims. Zünd is entitled to have the reservation of ownership registered.
20. If the goods are seized by a third party or if there is any other interference with Zünd's property rights, the customer must notify Zünd immediately.
21. In the event of resale, the proceeds obtained are deemed to have been assigned to Zünd in advance, without prejudice to further claims of Zünd.

### **6. Delivery**

#### **A) General terms of delivery**

22. The delivery period may vary due to the place of delivery and the type of delivery. Any exceeding of agreed delivery periods shall not give rise to any claim for compensation or reimbursement of any damage resulting from delayed delivery. Delays in delivery do not entitle the customer to withdraw from the contract.
23. The delivery period begins with the date of the definitive and complete order confirmation. If Zünd agrees to subsequent changes to the delivery, the delivery period shall start again.
24. In the absence of any other express agreement, Zünd shall determine the mode of shipment and the carrier. The customer confirms that she agrees with the choice of carrier and is informed accordingly. The current forwarding agents with whom Zünd works are carefully selected, instructed and checked. The customer is obliged to inform Zünd in good time of any questions or requests regarding shipping.

## **B) Offline contracts**

25. For offline contracts, the delivery periods and delivery conditions listed in the written order confirmation shall apply in each case.
26. The customer undertakes to accept the products within the delivery period.
27. All consignments travel for the account and at the risk of the customer or the third party. To the extent permitted by law, Zünd excludes all liability for damage arising in connection with the transport of the goods, even if the damage is caused by auxiliary persons. Zünd accepts no liability for accidents that occur during the loading or unloading of Zünd products or in connection with auxiliary equipment such as belts, ropes, binding wires, etc. Zünd accepts no liability for accidents that occur during the loading or unloading of Zünd products.

## **C) Online contracts**

28. Delivery shall be made on the basis of "Carriage and Insurance Paid to (CIP) / Freight Paid Insured", in accordance with the INCOTERMS in force at the time of the formation of the contract, to the agreed destination in accordance with the information provided by the customer.

## **7. Force majeure**

29. Force majeure shall be deemed to exist, among other things, in the event of natural hazards (e.g. floods, storms, fire), the occurrence of unforeseen events in manufacturing or distribution or difficulties and delays in transport, traffic interruptions and technical disruptions as well as interruptions in communication networks and failure of IT infrastructures, etc.
30. Zünd shall inform the customer as soon as possible in the event of impending delivery failures due to force majeure.
31. Neither party shall be liable to the other party for the non-performance or delay of its obligations in the event of force majeure. If an interruption is caused by force majeure, the relevant contractual periods shall be extended by the period corresponding to the period of the interruption.
32. Zünd reserves the right to release itself from the delivery obligation in the event of force majeure. In this case, Zünd will inform the customer as soon as possible by suitable means and refund any advance payments already made. The customer waives the right to assert further claims.

## **8. Quality and liability**

### **A) Risks and limitations**

33. All risks associated with the use of the goods shall be borne by the customer or the user.
34. The customer may install, repair and maintain the goods to the extent described in the operating instructions. Anything beyond this may only be installed, repaired and maintained by specialists who have been trained or authorised by Zünd. Installations, repairs and maintenance by unauthorised third parties or by third parties are excluded from the guarantee, warranty and liability. If this requirement is disregarded, the guarantee expires immediately without reservation.
35. Any information from the website, my.zund.com or other sales channels of Zünd, in particular in connection with the goods, the use and/or intended use of the goods, has been compiled with great care. Should the information provided on the website or my.zund.com nevertheless be inaccurate or incorrect, no claims can be made against Zünd as a result. All claims in connection with representations, offers, guarantees and/or warranties, irrespective of whether these arise expressly or implicitly from the information in the web shop or other sales channels, including fitness for purpose, marketability, further claims and third-party rights, are hereby expressly excluded.
36. Under no circumstances may third parties assert guarantees, assurances and liability claims against Zünd in connection with orders placed by the customer, have them assigned to them and/or derive claims from them.
37. The client declares having been adequately informed about the risks that may arise in connection with the contract and confirms having taken them into account.

### **B) Obligation to inspect and notify**

38. The goods must be inspected by the customer or the recipient immediately upon receipt, in particular to ensure that the delivery is complete and that the goods are not damaged (free from material and processing defects).
39. If the inspection is not carried out or if Zünd is not notified in writing within 10 days of receipt of the delivery, or in the case of hidden defects immediately after their discovery, of any defects for which Zünd is liable, any warranty obligation on the part of Zünd is excluded.
40. Any warranty claims shall become statute-barred one year after delivery to the customer, even if the defects were not discovered until later.

### **C) Warranty conditions for machines**

41. Zünd sends the customer a separate document regarding the warranty conditions (warranty periods, warranty restrictions, etc.) concerning machines. This warranty begins on the date of installation and comes into effect after the customer has completed and signed the aforementioned document and returned it to Zünd.
42. If the aforementioned document is in force for the contractual relationship between Zünd and the customer, the provisions therein shall take precedence due to speciality. The provisions of these GTC apply in addition. If the document is not completed and signed and returned to Zünd, the provisions of these GTC apply.

### **D) Liability, warranty and guarantee**

43. Zünd shall provide its services carefully and professionally within the framework of its operational resources and the foreseeable requirements, insofar as Zünd is not prevented from doing so by circumstances for which it is not responsible.
44. In the event of breaches of its contractual obligations, Zünd shall be liable to the customer without limitation for direct and proven damage caused by Zünd through unlawful intent or gross negligence. Liability for slight negligence as well as indirect, consequential or incidental damages is expressly excluded.
45. Zünd shall in particular not be liable in the event of improper use and storage, faulty processing or assembly by the customer or third parties, natural wear and tear, excessive stress and the like.
46. Zünd's liability, warranty and guarantees are limited exclusively to manufacturing and material defects and include the free replacement or, at Zünd's discretion, the free repair of the product or components of the product which Zünd recognises as defective. Additional costs for express and courier shipments shall be borne by the customer. Replaced goods become the property of Zünd and must be returned to it immediately.
47. All further warranty claims (including warranty of title) of the customer are expressly excluded to the extent legally possible and permissible. The customer also has no further rights to cancellation, reduction or compensation for the damage caused by a defective delivery.

## **9. Intangible rights**

48. All intellectual property rights, in particular (but not exclusively) patent rights, electronic and/or physical data, copyrights, in connection with, among other things, order data, product specifications, web shop content and the like are the exclusive property of Zünd. The customer is not entitled to use any intangible rights without the express written consent of Zünd.

## **10. Information and data protection, confidentiality**

49. The parties undertake to maintain secrecy with regard to information and data that is neither public knowledge nor generally accessible, unless expressly agreed otherwise. This obligation shall also be imposed on included third parties. In case of doubt, facts and data shall be treated confidentially. The duty of confidentiality already exists before the conclusion of the contract and also after the termination of the contractual relationship or after the performance of the agreed services. Statutory duties of clarification and information remain reserved.
50. Zünd may retain the contact information provided by the customer to Zünd and contact her about it. Zünd may use the information provided by the customer for:
  - a. Improvements to the homepage and services of Zünd,
  - b. Follow-up and queries as part of the customer satisfaction assessment; and
  - c. Contact via e-mail for advertising, marketing and information purposes
51. Zünd ensures the protection of the customer's information and data in accordance with the legal system, in particular in accordance with the applicable data protection laws. The use of information and personal data is regulated in the Zünd Group Privacy Policy. The customer confirms that he is appropriately informed about and agrees to the protection of information and data.
52. The retention of information and data (e.g. contracts) is the responsibility of the client.

## **11. Further obligations of the customer**

53. The customer undertakes to provide in good time all information necessary for the performance of the contract and to create and maintain in its environment all operational, personnel, organisational, technical and other conditions necessary for the performance of the services by Zünd, so that Zünd can provide the services on time.
54. Delays and additional expenses incurred by Zünd as a result of late and incorrect fulfilment of the client's duties of preparation and cooperation is entirely at the expense of the client.
55. The customer undertakes to obtain any necessary consent from its employees, subcontractors and third parties which is required for the performance of the contract by Zünd (e.g. for contacting or using Zünd Connect).

## **12. Final clauses**

### **A) Mediation and conflict management**

56. In the event of any disagreement arising out of or in connection with this Agreement, the Parties undertake in good faith to seek a mutually agreeable solution at the appropriate operational level before commencing legal proceedings. Mediation and conflict management proceedings shall be commenced at the request of either party. The other party is obliged to participate in good faith.

### **B) Offsetting**

57. The mutual offsetting or retention of payments due shall require the consent of both parties.

### **C) Repeal, amendment or modification**

58. Zünd reserves the right to amend these GTC at any time.

59. Cancellations, additions or amendments to the GTC of Zünd must be made in writing (e.g. e-mail).

### **D) Severability clause**

60. Should individual provisions or a part of a provision of these GTC be or become invalid, this shall not affect the validity of the remaining GTC.

61. In this case, the parties undertake to replace the ineffective provisions in good faith by effective and enforceable provisions which correspond as far as possible to the economic purpose of the provisions to be replaced. The same shall apply mutatis mutandis in the event that these GTC contain a loophole.

### **E) Place of performance and jurisdiction**

62. The place of performance and jurisdiction for all matters and disputes arising from or in connection with the contractual relationships of the parties shall be exclusively the ordinary courts at the registered office of Zünd in Switzerland. Zünd reserves the right to sue the customer or the third party at its registered office.

### **F) Applicable law**

63. The contractual provisions of the parties and any disputes shall be governed exclusively by formal and substantive Swiss law, to the exclusion of private international law and the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Sales Convention).

**These GTC are based on the German version of the GTC of Zünd. In the event of any ambiguity, the German version of the GTC shall be authoritative.**

**English is not an official language of the Swiss Confederation. The translations of Swiss federal law is provided on [fedlex.admin.ch](http://fedlex.admin.ch) for information purposes only and has no legal force.**

Altstätten, 17.05.2022