



General Terms and Conditions

§ 1 Applicability

- 1) The legal relationship between Stefan ZUCKER & PARTNER GmbH ("Z&P") and its client ("CL") shall be governed by the following contractual conditions. Any terms and conditions of the CL that deviate from these GTC shall only become part of the contract if and to the extent that Z&P has acknowledged them in text form.
- 2) Z&P predominantly provides services to businesses (§ 14 German Civil Code, "BGB"). Notwithstanding this, these GTC shall also apply to Z&P's business relations with consumers (§ 13 BGB). In the latter case, the following provisions of these GTC shall apply with the following restrictions:
 - The delivery and completion terms stated by Z&P are binding contrary to § 4 1).
 - § 5 4) does not apply.
 - § 12 does not apply.
 - § 14 1) does not apply.
- 3) These General Terms and Conditions shall also apply in their respective current version to follow-up orders and in the case of permanent business relations.

§ 2 Order

- 1) The order shall only be binding for Z&P if both parties have confirmed it in text form. Amendments, modifications, and verbal collateral agreements shall also require text form to be effective. This shall also apply in particular to promises and information provided by Z&P's employees as well as by experts engaged by Z&P.
- 2) The text form requirement also applies to the modification or revocation of the text form clause.
- 3) If the order for the service is placed by Z&P electronically, Z&P shall confirm receipt of the order without delay. The confirmation of receipt does not yet constitute a binding acceptance of the order but may be combined with the declaration of acceptance.

§ 3 Execution of the contract

- 1) The scope of Z&P's services shall be specified in text form when the order is placed. If, during the proper execution of the order, a need arises to expand or otherwise modify the originally agreed order, this shall be agreed in advance in addition and in text form.
- 2) Z&P shall execute the order to the best of its knowledge and belief with due care. The parties agree that their contractual relationship is a service contract. When placing the order, Z&P cannot guarantee, for example, that a result desired by the CL can be represented by Z&P at the end. Depending on the order, Z&P shall make findings and/or decisions based on existing expertise and experience as well as consider the accepted rules of science and technology at the time of the conclusion of the contract and document these findings/decisions accordingly.
- 3) Z&P may have the accepted order executed in whole or in part by competent third parties. Insofar as, in the opinion of Z&P, the involvement of external service providers/subcontractors from the same and/or other specialist areas is necessary for the proper and timely completion of the order, these shall be commissioned by Z&P without requiring the separate consent of the CL.
- 4) Depending on the order, Z&P shall, to process the order, carry out the necessary and customary examinations, tests and/or measures at its own discretion or, if necessary, have them carried out, make enquiries, conduct investigations, travel, and make inspections as well as take photographs and make drawings or have them made, without this requiring the separate consent of the CL.
- 5) By placing the order, the CL authorizes Z&P to obtain the necessary information from the parties involved, authorities and/or third parties and to carry out surveys.
- 6) Z&P assumes no responsibility for the accuracy of the information on which the tests are based, unless expressly agreed otherwise in text form.

§ 4 Deadlines, Delay, Impossibility

- 1) The delivery and completion deadlines stated by Z&P are non-binding unless their binding nature has been expressly agreed in text form.
- 2) If the CL sets Z&P a reasonable period of grace after the service is due and Z&P allows this period to elapse without any response or if the service becomes impossible for Z&P, the CL shall be entitled to withdraw from the contract and - if Z&P is at fault - to demand damages instead of the service. §§ 281, 283 BGB remain unaffected.

§ 5 Warranty

- 1) Z&P's warranty only covers the services expressly commissioned in accordance with § 3 of these GTC. No warranty is given for the correctness and functioning of the relevant overall installation to which the assessed or tested parts belong; in particular, Z&P does not bear any responsibility for the design, material selection and construction of the examined installations. In any case, Z&P does not assume warranty obligations and the legal responsibility of the manufacturer.
- 2) Z&P's warranty obligation shall initially be limited to subsequent performance within a reasonable period. If the subsequent performance fails, i.e. if it becomes impossible or unreasonable for the CL or if Z&P unjustifiably refuses or unduly delays the subsequent performance, the CL shall be entitled at its discretion to demand a reduction of the remuneration (abatement) or rescission of the contract (withdrawal) under the statutory conditions.
- 3) In the case of only minor defects or if Z&P is not responsible for the breach of duty underlying a defect, the right of withdrawal shall be excluded.

- 4) Claims for supplementary performance, reduction of the remuneration or rescission of the contract which are not subject to the limitation period of § 438 para. 1 no. 2 BGB (German Civil Code) shall become statute-barred after one year from the beginning of the statutory limitation period.
- 5) The provisions of § 5 of these GTC shall not apply if Z&P has fraudulently concealed the defect.

§ 6 Confidentiality, copyright, data protection

- 1) Z&P shall be entitled to make copies of written or electronic documents and photographs which are made available to Z&P for inspection, or which are produced by Z&P and which are of importance for the execution of the order.
- 2) Insofar as expert opinions, test results, calculations and other documents or work results, including those in electronic form and those in the draft stage, which are subject to copyright protection are created in the course of the execution of the order, Z&P shall grant the CL a simple, non-transferable and non-sublicensable right of use, the extent of which shall be determined by the purpose of the contract. Z&P does not grant or transfer any further rights. The CL may only use such works in their entirety and also otherwise in unaltered form and only for the purpose resulting from the assignment. Specifically, any publication or reproduction shall require the prior written consent of Z&P in each individual case. Exempt from this are legal, official or court-ordered obligations to disclose, as well as generally known facts.
- 3) Z&P processes personal data of the CL for the proper fulfilment of the order and also otherwise only for permitted purposes. For this purpose, Z&P also uses automated data processing systems. In the data processing Z&P complies with the generally applicable data protection requirements in Germany. The CL shall inform Z&P expressly and without being asked about any special data protection requirements.

§ 7 Duties of the client

- 1) The CL shall ensure that Z&P receives all documents (e.g. ship documents, invoices, drawings, calculations, correspondence, photographs, exhibits, etc.) and information necessary for the execution of the order in full, free of charge for Z&P and in good time. Z&P shall be informed in good time, without special request, of all events and circumstances which may be of recognizable importance for the execution of the order.
- 2) Z&P shall not be obliged to check the documents, information or other services provided by the CL for completeness and correctness, insofar as the circumstances of the individual case in Z&P's estimation do not give rise to this or the order does not expressly include this.
- 3) The execution of the order without the fulfilment of the points § 7 1) and 2) of these GTC shall be at the sole risk of the CL, insofar as Z&P is not partly at fault.
- 4) The CL shall perform all preparatory actions necessary for the execution of the order on its own responsibility and at its own expense. The CL shall keep the objects to be inspected freely accessible and in a condition suitable for inspection. The CL shall refrain from any measures that could falsify the findings of Z&P unless they are necessary to prevent or mitigate damage.
- 5) If the execution of the order is not possible at the agreed time due to a reason for which the CL is responsible, Z&P reserves the right to invoice the damage incurred (order value less expenses saved, based on the respective date). The CL shall be entitled to prove that no damage was incurred or that the damage was lower.
- 6) The alteration of a design created by Z&P, whether of a textual, graphic, or photographic nature, may only be carried out by Z&P itself.
- 7) If delays occur at an agreed date due to an act of the CL, Z&P reserves the right to invoice the additional expenditure incurred as a result at the agreed hourly rate in addition to the agreed fee.

§ 8 Termination

- 1) The CL and Z&P may terminate the contract at any time for good cause in text form. The termination shall become effective upon receipt by the other party. An ordinary termination is only possible with a corresponding contractual agreement.
- 2) For the CL, good cause shall be deemed to exist in particular if Z&P continues to grossly violate its duties as an expert despite prior warning. For Z&P, good cause shall be deemed to exist in particular if the CL refuses to cooperate as required for the execution of the order, influences the services and/or their result in an inadmissible manner or falls into financial collapse or debtor's default.
- 3) In the event of termination by the CL, Z&P shall be entitled to the contractually agreed fee, whereby Z&P must allow itself to be credited for saved costs/expenses. The CL shall have the right to prove a lower contractual performance or higher saved expenses.

§ 9 Remuneration and terms of payment

- 1) The amount of Z&P's remuneration shall be regulated by an agreement in text form. If no explicit agreement on remuneration is made, the CL shall accept the cost rates of Z&P applicable at the time of performance of the service regarding the amount of remuneration. Several clients shall be liable as joint and several debtors.
- 2) In the case of an (anticipated) net fee volume of more than EUR 5,000.00 or in the case of orders with high expenses for travel costs, special investigations, and comparable orders, Z&P shall have the right to demand an appropriate advance payment on remuneration, ancillary costs, and expenses when the order is placed. Furthermore, in this case partial invoices can be issued according to the services already rendered.



Partial invoices do not have to be designated as such. The receipt of an invoice does not mean that Z&P has fully settled the order with this invoice.

3) If the CL is in arrears with the settlement of a partial invoice despite a grace period having been set, Z&P may refuse further execution of the order, withdraw from the contract or demand compensation.

4) The remuneration invoiced in accordance with § 9 2) of these GTC and/or by final invoice shall be due for payment immediately after invoicing, unless otherwise agreed or a due date is specified in the invoice. § 286 BGB remains unaffected.

5) The value added tax valid at the time of the conclusion of the order shall be shown separately and charged by Z&P in addition to the remuneration. Cheques, bills of exchange and payment orders shall only be accepted on account of performance and shall be deemed to be payment upon redemption. Customary bank charges shall be borne by the CL.

§ 10 Liability

All work is carried out to the best of our knowledge and belief and with due care. Nevertheless, the liability of Z&P is subject to the following limitations:

1) Z&P shall be liable for damages, irrespective of the legal grounds, if Z&P or its vicarious agents have caused the damages intentionally or by gross negligence due to defective execution or performance.

2) The CL must inform Z&P in text form of special risks, extraordinary damage possibilities and unusual damage amounts prior to the conclusion of the contract.

3) The CL shall notify Z&P in writing of any damage immediately after becoming aware of it.

4) Z&P shall not be liable for negligence, subject to a milder standard of liability according to the statutory provisions (e.g. for diligence in own affairs), provided that this does not concern an insignificant breach of material contractual obligations (obligation, the fulfilment of which enables the proper performance of the contract in the first place and on the observance of which the contractual partner regularly relies and may rely) or damages resulting from injury to life, body or health. In the event of a negligent breach of material contractual obligations, however, Z&P's liability shall be limited to compensation for the damage typically foreseeable at the time of conclusion of the contract.

5) The limitation of liability according to § 10 4) of these GTC shall also apply to breaches of duty by or for the benefit of persons whose fault Z&P is responsible for according to statutory provisions as well as any personal liability of organs and experts and other employees of Z&P. It shall not apply if Z&P or the aforementioned persons have fraudulently concealed a defect or in the case of claims arising from a guarantee of quality or for claims under the Product Liability Act (ProdHaftG).

6) If Z&P has caused and is responsible for damage to property or financial loss due to negligence, its liability shall be limited to the amount corresponding to Z&P's coverage claim against its professional liability insurance (coverage amounts for financial loss: EUR 3 million; for damage to property: EUR 0.5 million), provided that these do not relate to material contractual obligations or damage resulting from injury to life, body or health. If the CL wishes to insure against liability more than this, there is the possibility of additional insurance for each individual case, which can be taken out at the CL's request and expense.

7) Any claims for damages shall become statute-barred, insofar as they are not subject to the limitation period of § 438 para. 1 no. 2 BGB (German Civil Code), within one year after the allegedly damaging action by Z&P has ended.

8) The CL is obliged, before asserting any claims against Z&P, to assert claims primarily out of court against the direct party responsible for the damage (e.g. the construction or repair yard or the previous owner of the yacht). In this respect, there shall be no need for legal action against third parties (including dunning proceedings, execution proceedings or independent proceedings for the preservation of evidence as well as arbitration proceedings).

9) Insofar as Z&P only owes the conclusion of the contracts necessary for the provision of the contractual service, it shall only be liable for the careful selection of the commissioned third party.

§ 11 Force majeure

1) In the event that one of the parties is unable to fulfil its performance and protection obligations towards the other party in whole or in part or in a timely manner due to an unusual and unforeseeable event over which this party has no influence and the consequences of which could not have been avoided despite the application of due care (force majeure), the affected performance and protection obligations of the party invoking force majeure shall be suspended for as long as the event and its consequences last; any counter-performance obligations of the other party shall also lapse for this period.

2) Claims, in particular claims for damages of the other party do not exist in this respect. However, the party invoking force majeure is obliged to inform the other party immediately in text form about the event, the suspended performance obligations, and the expected duration of the suspension of the performance obligations. The same shall apply if, during the suspension of the performance obligations, the party invoking force majeure must recognize, while exercising due diligence, that the notified expected duration of the suspension will change significantly.

3) If the event lasts longer than six months from the first information to the other party, both parties are entitled to withdraw from the contract. The right of withdrawal shall be replaced by the right of termination for continuing obligations. The suspension of a payment obligation cannot be based on force majeure - except in cases prescribed by law or if it is a counter-performance obligation within the meaning of paragraph 1. § 287 sentence 2 of the German Civil Code (liability for contingency during the debtor's default) remains unaffected.

§ 12 Assignment, set-off, right of retention

A set-off against fee claims of Z&P with counterclaims of the CL is excluded, unless the counterclaim of the CL is undisputed or has been legally established by a court of law. In the same way a right of retention of the CL against fee claims of Z&P is excluded, as far as this right of retention is not based on the same contractual relationship.

§ 13 No contract with protective effect in favor of third parties

The parties clarify that the contract does not have any third-party protective effect, in particular not vis-à-vis banks, insurance companies, policyholders, authorities, shipyards, brokers, parties/interested parties to a purchase, leasing, charter or rental contract, etc. Z&P shall not assume any liability or responsibility towards third parties for the services provided to the CL.

§ 14 Place of performance, place of jurisdiction, applicable law

1) The place of performance for all obligations arising out of the contract shall be the registered office of Z&P.

2) Insofar as the CL is a business, a legal entity under public law or a special fund under public law or the CL does not have a general place of jurisdiction in Germany, the parties agree that the courts in Hamburg shall have exclusive jurisdiction for all disputes arising from this contract. If the CL is a consumer and is domiciled in Germany, the parties agree that the German courts shall have international jurisdiction.

3) This contract and all disputes arising from it shall be governed exclusively by the substantive law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). Article 6 para. 2 Rome I-Regulation remains unaffected.

§ 15 Precedence of the German version

In case of doubt regarding the interpretation of these GTC, the German version shall prevail.

§ 16 Severability clause

Should any provision of these GTC be or become invalid or should an unintended loophole become apparent, the legal validity of the remaining provisions shall not be affected thereby. In this case, Z&P and the CL undertake to agree on a substitute provision for the invalid provision.