

# General Terms and Conditions

Zambelli RIB-ROOF GmbH & Co. KG

As of 1 May 2022

## 1. Incorporation of conditions/Written form

- 1.1 The terms and conditions hereof are stipulated in advance and shall apply to all business transactions between Zambelli RIB-ROOF GmbH & Co. KG (hereinafter referred to as „Zambelli“ or „we“ or „us“ or „our“) and the Customer. The same shall apply to future orders.
- 1.2 Unless otherwise expressly rejected, any terms and conditions deviating from, supplementing or contradicting Zambelli's terms and conditions shall not be recognised by Zambelli. This shall particularly apply when Zambelli renders services without reservation despite conflicting conditions.
- 1.3 Deviating agreements as per clause 1.2 shall only be binding in individual cases if they are expressly confirmed in writing by Zambelli. The validity of the remaining terms and conditions shall remain unaffected.
- 1.4 Individual agreements made with the Customer in individual cases (including subsidiary agreements, reservations, amendments and supplements) shall supersede and prevail over these terms and conditions in any case. Such agreements shall be agreed and specified in writing or confirmed in the written form by Zambelli. This shall also apply to any changes to this written form requirement.

## 2. Prices and conditions

- 2.1 The prices as per Zambelli's price list current at the date of conclusion of the contract or the valid quoted price shall apply. The previous price lists lose their validity upon publication of a new price list.
- 2.2 Unless otherwise stipulated, all prices are to be understood ex works and are exclusive of Value Added Tax. Up to the free freight limit amounting to € 5,000 freight charges shall be calculated proportionally, separately stated and invoiced. Delivery of the goods in Germany and Austria is made on a „free construction site“ basis without unloading. Special and overlength shipments shall be calculated in consideration of proportionally calculated freight charges, separately quoted and invoiced.
- 2.3 Unless otherwise stipulated, the prices are based on raw material prices and quantities current at the date of conclusion of the contract. If the information required for placing an order for necessary materials with Zambelli's sub-suppliers (e.g. measurements, colour etc.) is not complete or is not completely available at the date of conclusion of the contract, the Customer shall submit this as soon as possible.
- 2.4 For small order quantities, i.e. quantities below the minimum order quantity, a surcharge in the amount of € 1.50 is charged per item.
- 2.5 For small orders under € 250, a handling fee is charged.
- 2.6 Following surcharges may apply: € 150 for low quantity orders ( under 100 square meters); € 5 per profiled sheet in case of curved sheets with radius of up to 10 m; € 3 per profiled sheet in case of short RIB-ROOF Speed 500 profiled sheets (under 2 m); € 40 for orders with 5 to 9 different

sheet lengths; € 75 for orders with 10 to 19 different sheet lengths; surcharge for orders with more than 20 different sheets lengths is quoted upon request.

- 2.7 In the event of failure for any reason to comply with the agreed appointment to use Zambelli's out-of-office services or consultancy services, € 500/day per employee plus the incurred travel expenses are charged.
- 2.8 Holding bracket distances: a fixed rate in the amount of € 100 is charged in case of subsequent corrections of the verifiable documentation of the RIB-ROOF roof covering regarding wind loads. A fixed rate in the amount of € 50 plus € 45/CAD-working hour is charged for subsequent corrections of technical layout drawings.
- 2.9 Prices are provided according to the London Metal Exchange on the day of making the offer, subject to current price development.

## 3. Delivery/Default in delivery/Security

- 3.1 Unless otherwise stipulated, deliveries are made on the most favourable freight route. Express deliveries are only made if this has been expressly requested by the Customer. This shall also apply to other shipping modes expressly requested by the Customer.
- 3.2 Unless otherwise stipulated, delivery of the goods shall be made by Zambelli consigning the goods to the confirmed place of delivery without unloading.
- 3.3 Partial deliveries shall be admissible.
- 3.4 Delivery time shall commence when the Customer has performed his duties of cooperation according to clause 2.3. A date of delivery determined on a calendar basis shall be postponed by the same period of time as the period of delay of the performance of the Customer's duties of cooperation.
- 3.5 For reservation of the delivery date, it shall suffice if the goods have left Zambelli's premises before expiry of the delivery date or Zambelli has placed the goods at the disposal and informed the Customer about the date when the goods are ready for the shipment.
- 3.6 Zambelli reserves the right to suspend the order processing subject to the down payment to be made or outstanding invoices to be settled by the Customer. Before the delivery of the goods and/or installation, the Customer shall be obliged to submit a performance bond, amounting to the sum of the outstanding payment, or similar security issued by one of the major banks licensed for business operations in the European Union, according to the § 232 subsection 1 BGB (German Civil Code). Pending provision of this guarantee, Zambelli reserves the right to refuse performance.
- 3.7 Should any unforeseen circumstances arise after the conclusion of the contract, e.g. shortage of raw materials, energy deficiency or defect in the machines required for the production, job actions, force majeure, acts of God or any other similar events that are beyond our or our suppliers' control and hence hinder the delivery, we shall promptly notify the

Customer of the occurrence of such events and suggest a new estimated date of delivery. Should it be not possible to perform the services within the new delivery lead time, Zambelli shall reserve the right to withdraw from the contract in whole or in part. Any payments already made by the Customer shall be reimbursed by Zambelli. Zambelli's statutory rights of withdrawal and termination as well as the legal regulations regarding the contract performance in case of exclusion of the obligation to provide services (e.g. when provision of services and/or supplementary performance become impossible or unreasonable) shall remain unaffected. The Customer's rights of withdrawal and termination shall also remain unaffected.

- 3.8 Installation plans and cutting lists are made on the basis of the documentation provided by the Customer. Unless amendment requests are made by the Customer within 24 hours, Zambelli shall deem this as the Customer's consent.
- 3.9 Zambelli's instructions for site services (rollforming/curving) are available at <https://www.zambelli.com/en/gtc.html>.
- 3.10 Zambelli RIB-ROOF GmbH & Co. KG shall be responsible for choosing appropriate packaging material. Zambelli's standard packaging for profiled sheets is bundles lashed with polystyrene; accessories are normally packed on pallets. The Customer bears all costs for special packaging, boxes and special crates. Zambelli recommends the use of special packaging in case of export shipments by road, sea or air freight in order to avoid damage in transit.

#### **4. Default of acceptance**

- 4.1 The Customer is in default of acceptance in case of refusal to accept the goods free from defect upon their delivery. Should the Customer expressly refuse the acceptance of ordered goods and services before their delivery, the delivery shall be deemed to be dispensable and therefore the Customer defaults on acceptance upon our verbatim offer. In case of default of acceptance, the Customer shall be obliged to reimburse all storage costs. Storage costs shall account for at least 0.5% of the net order value for every commenced month, but no more than 5% of the net order value. The Customer shall be entitled to receive evidence that Zambelli incurred no damage or impairment due to the default of acceptance or the amount is considerably below the lump sum.
- 4.2 If the Customer is in default of acceptance, Zambelli reserves the right to revoke the contract, if the requirements of § 323 BGB (German Civil Code) are satisfied, or to demand damages for nonperformance, if the requirements of § 280 (subsections 1, 3), § 281 BGB (German Civil Code) are satisfied. Damages in case of nonperformance may account for 20% of order price including VAT if the Customer does not prove that no damage or minor damage was incurred. Particularly in case of custom-made products, Zambelli expressly reserves the right to assert proved huge damage.

#### **5. Shipment, transfer of risks**

- 5.1 Zambelli's production plant shall be deemed to be the place of performance for payment and delivery.
- 5.2 Should the Customer request shipment of the ordered goods to a place other than Zambelli's production plant, the risk of accidental loss or deterioration of the goods shall pass to the Customer when Zambelli hands the goods over to the forwarding agent, carrier or any other persons or establishments appointed to perform delivery. The provisions of § 447 BGB (German Civil Code) shall also apply if the shipment is carried out with Zambelli's own means of transport or Zambelli's employees and regardless of the fact who bears the freight costs. In this case, § 278 BGB (German Civil Code) shall apply with regard to Zambelli's employees.
- 5.3 Transport insurance shall only be obtained upon a special agreement and at the Customer's expense.
- 5.4 Without prejudice to the provisions of 5.2, the risk shall pass to the Customer when Zambelli hands the goods over to the Customer or when the Customer is in default of acceptance, according to the provisions of 4.1.

#### **6. Proof of delivery for intra-community deliveries on the part of the Customer**

- 6.1 According to §§ 17a-17c UstDV (Value Added Tax Implementing Regulations), in case of every tax-free intra-community delivery, the Supplier shall be obliged to request from the Customer a confirmation in the form of a Certificate of Entry or an alternative document confirming receipt of the goods.
- 6.2 If the Supplier or the Customer commissions an external carrier, a CMR shall be accepted as an alternative confirmation document which may replace the Certificate of Entry provided that field 24 is correctly and completely filled out.
- 6.3 If the Customer uses their own vehicle to transport the ordered goods, the Certificate of Entry is deemed to be the only document, which shall be accepted as proof of delivery.
- 6.4 In case of parcel or general cargo consignments, the Supplier shall retrieve a proof of delivery from the respective service provider.
- 6.5 According to 6.2 and 6.3, the Customer shall be obliged to confirm the goods acceptance regarding all deliveries by prompt submission of a corresponding proof of delivery to [ZRR-Confirmation@zambelli.com](mailto:ZRR-Confirmation@zambelli.com).
- 6.6 Should the Customer fail to fulfil their obligation to provide a proof of delivery, the Customer will be subsequently charged with the German VAT, as the conditions for the tax exemption for intra-community deliveries according to § 6a section 1 and 3 UstG (Value Added Tax Act) are not satisfied in this case.

## 7. Warranty

- 7.1 Agreements regarding quality shall only be binding provided that they are expressly made with the Customer in writing. In particular, all characteristics and information indicated in lists and quotations regarding measurements, weights and illustrations are only roughly determined and calculated, hence not binding.
- 7.2 The goods delivered may differ from the provided samples within customary tolerance values. Such deviations do not constitute any defect. Point 1.4 shall remain unaffected. Minor chromatic aberrations and natural surface deviations can arise when using different batches. However, they do not represent any defects.
- 7.3 Customary length tolerance according to 7.2 amount to +/- 3,0 ‰ of the theoretical length of profiled sheets, no more than 20mm analogous to RAL RG 617, straightness tolerances analogous to EN 485-4, edge tolerances according to DIN 6930/6935 (German Industrial Standard) and permissible measurements and form deviations according to DIN 59232 (German Industrial Standard). Various deviations in construction widths can occur in case of curving of profiled sheets with machines (smooth curving) due to material and manufacturing conditions which can cause optical impairments caused by material warping. Such measurements and shape do not present a manufacturing defect.
- 7.4 The Customer shall inspect the goods immediately. If the Customer observes or otherwise becomes aware of any patent fault or defect, and/or delivery of a type or quantity of goods other than ordered, the Customer shall immediately notify Zambelli upon acceptance of the delivery by giving a prompt written notice in a form of a delivery record. If the Customer observes or becomes aware of any other fault or defect in terms of a proper inspection of any type, without delivery of a non-patent type or quantity of goods other than ordered, a written notice thereof shall be given immediately, however, not later than 7 days from the date of delivery. Delivery shall be considered accepted if the notice of defect has not been submitted in due form and time. If the Customer becomes aware of a latent defect, which could not have been discovered within a proper inspection, the Customer shall give a prompt written notice thereof within one year from the date of delivery.
- 7.5 Until the complaint has been investigated, the goods with the defect announced shall not be further processed. Zambelli shall be given the opportunity to inspect the announced defect on-site.
- 7.6 If the complaint is justified, Zambelli will, at its discretion, either remedy the defect or offer the Customer a replacement delivery. If the subsequent performance fails within a reasonable period of time, the Customer shall have the right either to demand a price reduction, withdraw from the contract or, in case of fault, demand indemnity. Should the Customer withdraw from the contract, the Customer shall not be entitled to bring any damages claim instead of the performance. The Customer may not claim damages other than in point 9 stated case.
- 7.7 Zambelli shall be entitled to render the subsequent performance only if the Customer has made the due payment. Nevertheless, the Customer has the right to retain a partial amount of the purchase price calculated in an adequate proportion to the defect.
- 7.8 The warranty period is 12 months from the date of delivery. If the goods are in form of a construction or another product, which has been used for the construction according to its usual type of use, and caused the defectiveness (building material), the statute of limitation is five years from the date of delivery according to the statutory regulation § 438 subsection 1 Number 2 BGB (German Civil Code). This shall not affect statutory special regulations in case of Claim and Delivery (Replevin) of the third party (§ 438 subsection 3 BGB - German Civil Code), fraudulent intent (§ 438 subsection 3 BGB - German Civil Code) and claims in recourse to the Supplier in terms of the final delivery to a consumer (§ 479 subsection 1 BGB - German Civil Code).
- 7.9 The preceding lengths of time under the statute of limitations of the Sales Law shall also apply to Customer's contractual and noncontractual claims for damages based on the defect of the goods, unless application of the statutory prescriptive period (§§ 195, 199 BGB -German Civil Code) results in a shorter prescriptive period in an individual case. The statute of limitations of the Product Liability Act shall remain unaffected in any event. In case of other claims for damages made by the Customer, statutory prescriptive period shall apply.
- 7.10 If the Customer does not use our system components, the warranty cannot be applied. Replicas of our system components are only permitted with our consent.

## 8. Terms of payment/Delay in payment

- 8.1 Unless otherwise agreed, our invoices are payable without deduction after receipt immediately.
- 8.2 Counterclaims including the Customer's warranty claims do not entitle to a set-off or retention, unless an undisputed and legally binding counterclaim exists.
- 8.3 The Customer is in default if he does not make payments due within 30 days after receipt of the invoice or similar payment schedules. The Customer shall also be deemed to be in default even without a reminder if it has been agreed that the purchase price shall be paid on a date determined calendar-based, and the Customer does not make a payment by the stipulated deadline. Notwithstanding the above, it shall be left to our discretion to remind the Customer when our purchase price claim is due. In this event, the Customer is in default with the reminder, unless the payment is not made due to circumstances beyond the Customer's control.

- 8.4 Should the Customer fail to pay when due, we shall be entitled to demand interest in the amount of 8 percent above the base rate as flat-rate damages from the time when default commences. Damages shall be assessed at a lower value if the Customer proves a lower damage. The proof of a higher damage by Zambelli shall be admissible.
- 8.5 If the Customer does not pay the stipulated price on the due date, and no delay in payment exists, we shall be entitled to interest on arrears in the amount of 7 percent p.a. (§§ 352, 353 HGB – German Commercial Code).
- 8.6 Zambelli reserves the right to claim further or higher damage. Should the Customer not make payments due, we shall be entitled to withdraw, in accordance with section 323 subsection 1 BGB (Civil Code). We shall be entitled to withdraw immediately, should the Customer suspend payments, initiate insolvency proceedings or such proceedings are initiated with respect to the assets of the Customer.
- 8.7 Payments by bill or cheque are accepted on account of performance subject to payment. Acceptance of bills is only made after a corresponding agreement when the corresponding costs for negotiating bills are fully paid in cash and this concerns rediscountable bills.

## 9. Retention of title

- 9.1 Goods delivered shall remain our property until performance of all current and future claims from business relations with the Customer (reserved goods).
- 9.2 The Customer shall be obliged to separately store and label reserved goods.
- 9.3 Processing or transformation of reserved goods shall be performed by the Customer on our behalf without any obligations arising for us. Should the Customer combine, mix or process our reserved goods with other goods, Zambelli shall be entitled to co-ownership on a pro rata basis of the goods created. Value of our co-ownership depends on the proportion of the invoice value of our reserved goods to the market value of the goods created by combining, mixing or processing. These goods shall be considered in this extent as reserved goods within the meaning of these conditions.
- 9.4 Sale of reserved goods shall be admissible in the ordinary course of business if the Customer guarantees our extended reservation of title (assignment of accounts receivable in accordance with 8.5). Other disposals and pledging and transfer by way of security, in particular, shall not be admissible.
- 9.5 Hereby, the Customer shall assign to Zambelli in advance any accounts receivable (hereinafter referred to as „AR“) with regard to reserved goods due from resale or any other legal ground in the amount of AR to be secured. We hereby accept the assignment. Should the Customer bring the above-named AR into current account agreement, the current AR shall be assigned to us in full. After balancing, the balance takes its place, which is considered assigned up to the amount of the original current AR. This shall apply correspondingly for the final balance in the event of termination of the current account relations.

- 9.6 The Customer shall be entitled to collection of assigned accounts receivable only in the ordinary course of business and revocably. Upon our request, the Customer shall notify the debtor of the assignment, whereas we ourselves shall also have the right of notification, when the Customer fails to pay secured receivables and the disclosure was previously announced to the Customer.
- 9.7 The authorization of the Customer regarding disposition of reserved goods as well as processing, combining and mixing as well as collection of assigned accounts receivable extincts in case of non-compliance with terms of payment, unauthorized disposal, significant deterioration of the financial position of the Customer, bill or cheque protest and insolvency proceedings filed against the Customer. We shall be entitled in these events to take possession of reserved goods after a statement of withdrawal, enter the Customer's business premises for the above-mentioned purpose, obtain useful information as well as inspect his bookkeeping documentation.
- 9.8 We shall undertake to release securities, to which we are entitled, in accordance with the foregoing provisions at our discretion and upon Customer's request to the extent that its value exceeds the accounts receivable to be secured by more than 10 percent.
- 9.9 The Customer shall notify us immediately about impending or executed access to reserved goods or assigned accounts receivable performed by third parties.
- 9.10 Unless registration and/or fulfilment of other requirements is a precondition for the validity of the retention of title, the Customer shall inform us about this and, at his expense, take any actions required for this immediately and give all required notifications. Should the authoritative legal system not permit the agreement on the retention of title, the Customer shall provide alternative appropriate securities in case of credit on goods.

## 10. General limitations on liability

- 10.1 Zambelli shall be liable in accordance with statutory provisions if the Customer asserts claims for damages based on intent, gross negligence including intent or gross negligence of our representatives or vicarious agents. Should we not be accused of intentional contract violation, liability for damages shall be limited to the foreseeable and typically occurring damage.
- 10.2 We shall be liable in accordance with statutory provisions, should we commit an essential breach of contract intentionally. Liability for damages in this event shall also be limited to the foreseeable and typically occurring damage.
- 10.3 Liability for intentional injury to life, body or health shall remain unaffected at any time. This shall also apply to the obligatory liability according to the Product Liability Act.

- 10.4 Unless otherwise stipulated above, liability shall be excluded.
- 10.5 Any additional liability for damages shall be excluded irrespective of the legal nature of asserted claims. In particular, this shall apply to claims for damages from negligence during the contract conclusion, other failures to comply with one's duty or tort claims for compensation of property damage according to § 823 BGB (German Civil Code).
- 10.6 This limitation shall also apply if the Customer demands compensation for futile expenses in lieu of claim for damages instead of performance.

#### **11. Violation of third party's rights**

Should deliveries be made according to drawings or specifications provided by the Customer that infringes third party's rights and in particular, property rights, the Customer shall indemnify Zambelli against any claims arising herefrom upon initial request, unless we are involved in the accrual of the claim due to intent or gross negligence. In this case - without prejudice to the provisions of 9. – §§ 830, 840, 254 BGB (German Civil Code) shall apply for the damage distribution between Zambelli and the Customer.

#### **12. Place of performance, jurisdiction, applicable law**

- 12.1 Stephansposching is the place of performance for all obligations from the contractual relations.
- 12.2 Place of jurisdiction for all legal disputes arising from the contractual relationship is the court responsible for Stephansposching provided that the Customer is a registered merchant, legal person under public law or entity incorporated under public law.
- 12.3 Substantive law of the Federal Republic of Germany shall apply exclusively to all legal relations between Zambelli and the Customer under the exclusion of any international and supranational (contractual) legal system, in particular United Nations Convention on Contracts for the International Sale of Goods (CISG).

#### **13. Data storage**

Data is stored in accordance with the Data Protection Act.

#### **14. German Consumer Dispute Resolution Act (VSBG)**

We do not participate in dispute resolution procedures conducted by the consumer arbitration board.