

General Terms and Conditions of Sales and Supply

1. General

1.1 These general conditions of sales and supply are applicable to all deliveries, services and offers of COMPOUNDS AG (CPS), especially if the customer buys regularly from CPS. In this case, it is irrefutably assumed that the customer has taken note of the terms and has accepted them. Contradictory terms of the customers are not applicable.

1.2 All agreements and legally relevant declarations of the parties to the contract must be in writing to be valid.

1.3 Offers which do not stipulate a validity period are not binding upon CPS.

1.4 The contract between the Parties is deemed concluded when CPS confirms its acceptance in writing.

1.5 The use of an electronic signature corresponding to the current level of technology and in accordance with the legally required rulings is permissible for a conclusion of contract or an alteration to the contract to be effective and replaces the requirement of such in writing.

1.6 Should a provision of these general conditions of sales and supply prove to be wholly or partly invalid or unworkable, the parties shall jointly seek an arrangement having a legal and economic effect which will be as similar as possible to the invalid provision.

2. Scope of supplies and services

2.1 The supplies and services of CPS are exhaustively specified in the order acknowledgement and in appendices thereto. CPS shall be entitled to make any changes which lead to improvements provided such changes do not result in a price increase.

2.2 CPS reserves the right to over- or under supply up to 10% of the ordered volume. If a specific (minimum) order quantity is required against surcharge, a special comment is to be made when the order is placed.

3. Drawings, technical documents and tools

3.1 Unless otherwise agreed upon, brochures and catalogues are not binding. Data provided for in technical documents are only binding in so far as having been expressly stipulated as such by CPS.

3.2 Each party to the contract retains all rights to technical documents provided to the other. The party receiving such documents recognises these rights and shall - without previous written consent of the other party - not make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

3.3 Tools and moulding tools of all kinds remain in all cases the property of CPS with exception of those provided by the customer.

3.4 Special conditions are to be agreed for tools and moulding tools provided by the customer to CPS. The cost for servicing and maintaining these tools are to be borne in all cases by the customer. The cost for storing these tools is the responsibility of CPS, however, up to a maximum of five years only after the last delivery was executed.

4. Regulations in force in the country of destination and safety devices

4.1 The customer shall, at the latest when placing the order, draw the attention of CPS to the standards and regulations applicable to the execution of the supplies and services, to their operation as well as to the health and safety of personnel.

4.2 Unless otherwise agreed upon, the supplies and services shall comply with those standards and regulations at the place of business of the customer of which CPS has been informed under Clause 4.1. Additional or other safety devices shall be supplied to the extent that having been expressly agreed upon.

5. Prices

5.1 CPS reserves the right to adjust the prices in case the wage rates or the raw material prices vary between the submission of the tender or quotation and the contractually agreed performance. In such case the adjustment shall be made according to the inflation rate applicable.

In addition, an appropriate price adjustment shall apply if

- the delivery time has been subsequently extended due to any reason stated in Clause 8.1, and 8.3, or

- the nature or the scope of the agreed supplies or services has changed, or

- the design, the material or the execution has undergone changes because any documents furnished by the customer were not in conformity with the actual circumstances, or were incomplete, respectively the customer did not, or too late, draw the attention to standards and regulations according to Clause 4.1.

6. Terms of payment

6.1 Unless otherwise agreed upon, payments shall be made by the customer 30 days after the date of invoice, net, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like.

6.2 The dates of payment shall also be observed if transport, delivery, erection, commissioning or taking over of the supplies or services is delayed or prevented due to reasons beyond CPS' control, or if unimportant parts are missing, or if post-delivery work is to be carried out without the supplies or services being prevented from use.

6.3 If the advance payments, if agreed upon, are not provided in accordance with the terms of the contract, CPS shall be entitled to adhere to or to terminate the contract, and shall in both cases be entitled to claim damages.

6.4 If the customer delays in the agreed terms of payment, he shall be liable, without reminder, for interest of around 8% p.a. with effect from the agreed date on which the payment was due. The interest charged will correspond to the rate applied by first class Swiss Banks. Payment of the interest does not release the customer from his obligation to make payments on the agreed dates or from the obligation to pay damages which might exceed the interest rate mentioned.

6.5 An offset of claims from either party out of this, or in conjunction with this contract is only allowed with an accepted or legally confirmed counterclaim.

7. Reservation of title

CPS shall remain the owner of all supplies until having received the full payments in accordance with the contract. The customer shall co-operate at first notice in any measures necessary or useful for the protection of the CPS' title.

8. Delivery time

8.1 The delivery time shall start as soon as the contract is entered into, all official formalities such as, but not limited to, import or payment permits have been completed, payments due with the order have been made, any agreed securities given and the main technical points settled. The delivery time shall be deemed to be observed if by that time CPS has sent a notice to the customer informing that the supplies are ready for dispatch respectively in case of services that CPS is ready to fulfil its obligations.

8.2 Compliance with the delivery time is conditional upon customer's fulfilling of its contractual obligations, especially its payments and co-operation responsibilities.

8.3 The delivery time is reasonably extended:

a) if the information required by CPS for performance of the contract is not received in time, or if the customer subsequently changes it thereby causing a delay in the delivery of the supplies or services;

b) if hindrances occur which CPS cannot prevent despite using the required care, regardless of whether they affect the customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilisation, war, revolution, serious breakdown in the works, accidents, labour conflicts, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, the need to scrap important work pieces, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God;

c) if the customer or a third party is behind schedule with the performance of its contractual obligations, in particular if the customer fails to observe the terms of payment for the current or for previous orders.

8.4 In case a specific date instead of a delivery period is fixed, such date shall correspond to the last day of a delivery period; Clauses 8.1 to 8.3 apply by analogy.

8.5 Any delay of the supplies or services does not entitle the customer to any rights to terminate the contract or any entitlements for damages or claims. This limitation does, however, not apply to unlawful intent or gross negligence on the part of CPS, but does apply to unlawful intent or gross negligence of persons employed or appointed by CPS to perform any of its obligations.

9. Passing of benefit and risk

9.1 The benefit and the risk of the supplies shall pass to the customer by the date of their leaving the works. Respectively for on-site contracts by the beginning of use of supplies or services the latest.

9.2 If dispatch is delayed at the request of the customer or due to reasons beyond CPS' control, the risk of the supplies shall pass to the customer at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the customer.

10. Forwarding, transport and insurance

10.1 CPS shall, the latest with the order, be notified of special requirements regarding forwarding, transport and insurance. The transport shall be ex works (Incoterms, latest issue) at customer's expense and risk.

Objections regarding forwarding or transport shall upon receipt of the supplies or of the shipping documents be immediately submitted by the customer to the last carrier.

10.2 The customer shall be responsible for taking insurance against risks of any kind.

11. Inspection and taking-over of the supplies and services

11.1 According to its own practices, CPS shall inspect the supplies and services before dispatch, respectively after fulfilling its services. If the customer requests further testing, this has to be specially agreed upon and paid for by the customer.

11.2 The customer shall inspect the supplies and services including partial supplies and partial services within a reasonable period upon arrival and shall immediately notify CPS in writing of any deficiencies. If the customer fails in doing so, the supplies and services including partial supplies and partial services shall be deemed to have been taken over.

11.3 Having been notified of deficiencies according to Clause 11.2, CPS shall as soon as possible remedy them, and the customer shall give CPS the possibility of doing so. After remedy of such deficiencies, a taking-over test may be carried out at the request of the customer or of CPS.

11.4 Taking-over of the supplies or services shall also be deemed completed as soon as the customer uses respectively can use the supplies or services of CPS including partial supplies or partial services.

11.5 Deficiencies of any kind in supplies or services including partial supplies and partial services shall not entitle the customer to any rights or claims other than those expressly stipulated in these general conditions.

12. Guarantee, liability for defects

12.1 Guarantee period

The guarantee period is 12 months. It starts when the supplies leave its works. If dispatch is delayed due to reasons beyond CPS' control, the guarantee period shall end not later than 18 months after CPS' notification that the supplies are ready for dispatch. In case of services, the guarantee starts after completion of the execution of said service and lasts 12 months.

For replaced or repaired parts the guarantee period finishes after expiry of the original guarantee period according to above Clause.

The guarantee expires prematurely if the customer or a third party performs inappropriate modifications or repairs or if the customer, in case of a defect, does not immediately take all appropriate steps to mitigate the damage and give CPS in writing the possibility of remedying such defect.

12.2 Liability for defects in material, design and workmanship

Upon written request of the customer, CPS undertakes – excluding the acceptance of any claims and at its choice – to repair or replace as quickly as possible any parts of the supplies which, before the expiry of the guarantee period, are proved to be defective due to bad material, faulty design or poor workmanship. Replaced parts shall become CPS' property. CPS shall bear the costs of remedying the defective parts in its works. The repair and the replacement costs outside the works of CPS are to be borne by the customer.

Upon written request of the customer, CPS undertakes – excluding the acceptance of any claims and at its choice – to repair or redo as quickly as possible any services which, before the expiry of the guarantee period, are proved to be defective.

12.3 Liability for express warranties

Express warranties are only those which have been expressly specified as such in the order acknowledgement. An express warranty is valid until the expiry of the guarantee period at the latest, unless an extended period has been agreed upon.

If the express warranties are not or only partially achieved, CPS has the right to carry out improvements. The customer shall give CPS the necessary time and possibility of doing so.

If such improvements fail completely or in part, the customer may claim a reasonable reduction of price.

12.4 Exclusions from the liability for defects

Excluded from CPS' guarantee and liability for defects are all deficiencies which cannot be proved to have their origin in bad material, faulty design or poor workmanship, e.g. those resulting from normal wear and tear (like tear and general wear as well as causes, but not limited to, electric overload, environmental pollution, electromagnetic disturbances), improper maintenance or repair, failure to observe the operating instructions, excessive loading, use of any unsuitable material, influence of chemical or electrolytic action, interference with other products, systems or services or resulting from other reasons beyond CPS' control.

12.5 Supplies and services of sub-suppliers

For supplies and services of sub-suppliers prescribed by the customer, CPS assumes liability only to the extent of such sub-suppliers' liability obligations towards CPS.

12.6 Exclusivity of liability claims

With respect to any defective material, bad design or poor workmanship as well as to any failure to fulfil express warranties, the customer shall not be entitled to any rights or claims other than those expressly stipulated in Clauses 12.1 to 12.5, especially no claims of cancellation or damages.

12.7 Liability for additional obligations

CPS is only liable to the extent of unlawful intent or gross negligence as far as claims arising out of faulty advice and the like or out of breach of any additional obligations are concerned.

12.8 The warranty rights and remedies cannot be assigned to any third party without the prior written approval of CPS.

12.9 The customer shall comply with CPS procedures concerning the return of goods under warranty or for repair (Repair and Replacement Procedure).

13. Software

13.1 In the absence of other agreements, all software is supplied by CPS in form of a license. After full payment for the software, the customer is the owner of the software and is licensed to use the software in the intended way for his own purpose. The customer is not authorized to grant a sub-license or to pass on, decompile or reverse engineer the software.

13.2 The content and scope of a license regarding software supplied by a third party is dependant on the license conditions of the third party supplier.

13.3 All other rights, especially copyrights and related rights of use and powers remain without restriction with CPS and with the third party supplier, respectively.

14. Non-performance, bad performance and their consequences

14.1 In all cases of bad performance or non-performance not expressly covered by these general conditions of supply - in particular if CPS, without any valid reasons, starts execution of the supplies and services so late that punctual completion is unlikely to be foreseen, or if an execution contrary to the terms of the contract can be clearly foreseen due to CPS' fault, or if the supplies and services have been executed contrary to the terms of the contract due to CPS' fault -, then the customer shall be entitled to grant a reasonable period for the supplies or services affected thereby by simultaneously warning to terminate the contract in case of non-compliance. If such additional period lapses due to CPS' fault, the customer shall be entitled to terminate the contract with respect to the supplies or services executed, or certain to be executed, contrary to the terms of the contract, and to claim a refund of the payments already made.

14.2 In such case Clause 16 shall apply with regard to any claims for damages on the part of the customer and with exclusion of any further liability, and any claim for damages shall be limited to 10 % of the contract price for the supplies and services affected by the termination.

15. Exclusion of further liabilities

15.1 All rights and claims on the part of the customer with the exception of those mentioned in these general conditions, irrespective on what ground they are based, are exhaustively covered in these general conditions of supply, and especially those not expressly mentioned for damages, reduction of price, termination or withdrawal from the contract are excluded. In no case whatsoever shall the customer be entitled to claim damages other than compensation for costs of remedying defects in supplies or services. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, loss of profit and other direct or indirect or consequential damages. This exclusion of liability, however, does not apply to unlawful intent or gross negligence on the part of CPS, but does apply to unlawful intent or gross negligence of persons employed or appointed by CPS.

16. Partial supplies and partial services

The conditions concerning acceptance and guarantee are to be enforced individually if partial supplies are to be executed. The same is valid, if services are performed which are, or can be of use to the customer partially.

17. Return of packaging material and recycling

17.1 The customer shall not be entitled to any rights regarding the return of packaging material or the recycling of product delivered by CPS.

18. Right of recourse of CPS

If, through actions or omissions of the customer or of persons employed or appointed by it to perform any of its obligations, personal injury, damage to the property of third parties or other damages occur and if a claim is made against CPS, then the latter shall be entitled to take recourse against the customer. The latter shall hold harmless CPS.

19. Jurisdiction and applicable law

19.1 The place of jurisdiction and fulfilment for both the customer and CPS shall be the registered office from COMPOUNDS AG. CPS shall, however, be entitled to appeal to the competent court at the customer's registered address.

19.2 The contract shall be governed by Swiss substantive law. The applicability of the UN Agreement dated April 11th, 1980 for contracts governing International Purchase of Goods is excluded.

20. Translation

20.1 In case of divergences between the English and the German version of the general terms and conditions of sales and supply, the German version shall be governing.

Pfäffikon, June 2017.