

Standard Terms and Conditions of Sale ConPro GmbH

1. Scope of Application

- 1.1 Any and all current and future goods and services shall be provided to our contracting partners (hereinafter referred to as "Customer") solely on the basis of these Standard Terms and Conditions, unless expressly agreed otherwise in any given case generally or for specific individual matters.
- 1.2 The INCOTERMS of the International Chamber of Commerce in Paris (as amended) shall also apply in cross-border transactions.
- 1.3 We will not generally recognize any standard terms and conditions of the Customer, even if we do not expressly reject such terms and conditions.
- 1.4 Any derogations from, modifications and/or supplements to agreements between us and the Customer, including these terms and conditions, must be made in writing. Any waiver of this writing requirement must be in writing.
- 1.5 Our Standard Terms and Conditions and any contracts, which are form the basis of these Standard Terms and Conditions, are governed by German law in the same manner as between domestic persons.
- 1.6 If any of the following terms and conditions are not binding upon contracting partners who do not qualify as entrepreneurs, governmental legal entities or special governmental funds, then such provisions will remain valid vis-à-vis any customer who qualifies as a merchant within the meaning of § 310 (1) of the German Civil Code ("BGB").
- 1.7 Installation and assembly work carried out by us shall also be governed by our supplementary Terms of Installation and Assembly.

2. Offer and Contract Formation

- 2.1 Our offers are non-binding. Technical data and any illustrations or pictures of the item for delivery, which appear in any offers, brochures or other informational documents, do not constitute a warranty or a warranty as to qualities. We reserve ourselves the appearing of necessary changes at any time.
- 2.2 All contracts concerning our goods and services are subject to our confirmation, either made in writing.
- 2.3 Any unilateral, legally binding statements concerning the contractual relationship, including any notices of termination, must be made in writing.
- 2.4 We reserve the right to make any modification (including any improvements to the ordered goods), if such modification appears advisable on the basis of regulatory requirements and/or consumer protection laws or for purposes of streamlining the manufacturing process, provided such modifications are not unreasonable for the Customer.
- 2.5 We reserve all rights in any offers and cost estimates provided by us as well as in any samples, tests, images, descriptions, models, calculations and other documentation, which are furnished to the Customer but originated from us or from third parties.
- 2.6 If we consent to the Customer's repudiation of a consummated transaction, then such Customer will be obligated to reimburse us for any expenses that we incurred in order to make it an offer.
- 2.7 If we accept any modifications to the order, then the Customer will bear the additional costs caused thereby.
- 2.8 Sentence 1, numbers 1 through 3 and sentence 2 of § 312 e (1) of the German Civil Code ("BGB") will not apply with respect to transactions executed in connection with electronic commerce, unless the Customer qualifies as a consumer within the meaning of the BGB.

3. Prices, Terms of Payment

- 3.1 Our prices shall apply only to the agreed goods and services. Any additional and special services will be invoiced individually and on special terms.
- 3.2 With respect to any contracts with an agreed term of more than 4 (four) months, we reserve the right to increase the prices in accordance with any cost increases triggered as a result of any collective bargaining contracts or an increase in the cost of materials. 3.3 Our invoices shall be settled by remitting payment to our business accounts by the payment date specifically agreed.
- 3.4 Payment must always be made in the currency indicated on the invoice.
- 3.5 Payments will be deemed made on the date on which the funds are at our disposal. Payments will be first credited against the oldest debt.
- 3.6 Any advance payments or payments on account will not accrue interest. Cheques and notes will be accepted subject to clearance and to the rights customarily reserved in commercial practice.
- 3.7 The payments will be deemed in default at the latest 30 (thirty) days after they fall due. A payment default may be triggered earlier by issuing a default notice. If there has been a payment default, then commencing on the date of default, the Customer will be obligated to pay interest in an amount allowed by law exceeding the base interest rate or an interest rate that is customary in the Customer's country.
- 3.8 If we can prove a higher interest rate is required to offset our loss, then we will be entitled to enforce such interest rate.
- 3.9 We will be under no obligation to carry out any additional deliveries to the Customer during the period in which the Customer is in default on its payments.
- 3.10 The Customer may offset its own claims against our payment claims or enforce a right to withhold its counter-performance, only if such Customer claims or rights are undisputed or have been reduced to final, non-appealable judgment.
- 3.11 The Customer is always entitled, however, to withhold its performance on the basis of counter-claims arising from the same contractual relationship.
- 3.12 If the Customer's financial condition has deteriorated, or it has discontinued its payments, or it has become over-indebted, or insolvency proceedings have been opened or a petition for their commencement has been made with respect to its assets, or the Customer's cheques or notes are not honoured, then all outstanding or suspended claims will be called in for immediate payment. In such cases, we will be entitled to demand advance payments or the provision of security, or where the Customer, following a demand, definitively refuses to perform the contract or provide security, to rescind the contract or demand compensatory damages based on non-performance.

4. Deliveries

- 4.1 Delivery schedules and deadlines will be binding only if we have expressly agreed that they are binding. An expressly agreed delivery schedule will be deemed to have been met (a) if the item of delivery is delivered for shipment during such period, or (b) in the event the shipment is delayed for reasons beyond ConPro GmbH's control, provided we issue notice of tender of delivery during the agreed period.
- 4.2 An agreed delivery schedule will be reasonably extended, if the failure to meet such schedule is attributable to an event occurring after the conclusion of the agreement such as a force majeure, mobilisation, war, uprising, strike, lock-out, government expropriation, embargo, shortage of raw materials or any other unforeseeable hindrance that cannot be avoided using reasonable means. The aforementioned shall also apply if such circumstances occur to persons delivering supplies to us.
- 4.3 If, as a result of a force majeure, the agreed performance is rendered impossible or commercially impractical, either in whole or in part, for a foreseeable period of more than six months, then we will have the right to rescind the Agreement.
- 4.4 The same shall apply to the extent a supplier's delivery is delayed as a result of force majeure.
- 4.5 If the shipment or delivery delay is caused by the Customer, then we will have the right to invoice the Customer for any additional costs arising therefrom.
- 4.6 We reserve the right to make partial deliveries to a reasonable extent.

5. Shipment

- 5.1 We shall deliver the ordered goods in packaging that is appropriate for the shipment and the product itself. The Customer shall bear the additional costs related to any requested extra packaging or transport materials.
- 5.2 Packaging that has been provided to the Customer on a loan basis only must be returned in accordance with the relevant agreements reached.
- 5.3 If such return shipment is not made in a timely manner, then we may seek reimbursement of the replacement costs from the Customer after having issued a second default notice (containing a final performance date).
- 5.4 If the packaging is not returned in an orderly condition, then the Customer shall be liable for the costs related to disposal and replacement arising therefrom.
- 5.5 The Customer shall bear the risk of loss on all deliveries, including return shipments (excluding return shipments based on defects in the goods), even if the parties agreed to a freight-paid, FAO/FCA or CIF delivery.
- 5.6 Risk of loss shall pass to the Customer at the latest upon shipment of the goods within the meaning of § 447 BGB.
- 5.7 The Customer shall bear the costs for any freight increases following the execution of the agreement and for any extra costs that are triggered by a hindrance or delay in the transport caused by circumstances beyond our control.
- 5.8 Only at the Customer's explicit request will we insure, at the Customer's expense, against damages caused by theft, breakage, transportation, fire, and water or against other insurable risks.

6. Complaints, Warranties

- 6.1 Promptly following delivery, the Customer must inspect the goods to determine whether their quantity and qualities conform to the terms of the contract and whether they are suitable for the intended purpose of use.
- 6.2 Written notice of any identifiable defects or quantitative discrepancies must be provided to us promptly but no later than within 14 days following delivery to the Customer.
- 6.3 Written notice of any latent defects or discrepancies must be provided to us promptly following their discovery but within 1 (one) year following delivery to the Customer at the latest. The notice shall include the order date, the invoice number, the bill of delivery number, and a brief description of the problem.
- 6.4 Failure to submit such notice (complaint) in a timely manner will result in the loss of the right to enforce claims against us based on defects or discrepancies, unless we fraudulently concealed the defect or provided a warranty. Our liability for defects is limited to the remedy of subsequent contract performance; i.e., to the Customer's right to demand, at our costs and at our discretion, either to cure the defect or to deliver a conforming good. Section 439 (3) BGB continues to apply. If, for whatever reason, the subsequent contract performance fails after a reasonable period of time, then the Customer may – in its discretion – demand a reduction in the purchase price or rescind the contract. In this case, the rights to enforce compensatory damage claims or to demand indemnity for expenditures made in vain will continue to exist, subject to the terms of item seven (7) hereof. The Customer will be entitled to enforce these rights immediately (i.e., without having to wait for a reasonable period of time), if we refuse to render subsequent contractual performance or if such performance would not be fair and reasonable for the Customer based on other grounds.
- 6.5 The aforementioned provisions do not apply to Customer claims based on any guaranty we provide. Any warranty claims against us will be time barred 1 (one) year from the date on which the goods are delivered, unless we fraudulently concealed the defect, in which case, the regular limitation period of three years will apply. Only the Customer is entitled to enforce warranty claims against us. These claims may not be assigned.

7. Liability for consequential damages

- 7.1 We shall be liable for the products delivered by ourselves for personal and material damage as per the regulations of the German product liability law. A corresponding liability insurance policy with world-wide coverage has been taken out by us. We shall not be held liable for any economic losses over and above this such as for example loss of production, material damage to items which are not the subject of the contract, loss of profits, costs of a covering purchase or other consequential damage.

8. Retention of Title

- 8.1 We retain title to all items delivered by us until the Customer has discharged all claims arising from its business relations with us.
- 8.2 Our retention of title extends to any new products that are created when the goods subject to title retention ("Secured Goods") [Vorbehaltsware] are processed. We conduct the processing as manufacturer.
- 8.3 If the Secured Goods are processed, linked to or co-mingled with other goods not belonging to us, then we will acquire a pro rata co-ownership interest equal to the ratio of the invoiced value of our Secured Goods to the invoice value of the other materials.
- 8.4 As long as the Customer is prepared and in a position to duly discharge the obligations it owes to us, it may dispose of the goods, in which we hold an ownership or co-ownership interest, in the ordinary course of business.
- 8.5 The following specific rules shall apply:
 - a) If the Customer does not require immediate payment of the purchase price from its own customers, then it must retain the ownership in the modified goods. Unless it has retained such title, the Customer will not be authorized to dispose of the Secured Goods.
 - b) The Customer hereby assigns to us all claims arising from the sale of the Secured Goods, including all cheques and notes, for purposes of securing our claims arising from the business relationship. In the event that we hold a co-ownership interest in the goods that are sold, the assignment will be limited to that portion of the claim, which represents our co-ownership interest. If the Secured Good is modified in connection with a work product agreement, then a claim, which represents the consideration for the work product in an amount equal to the pro rata amount of such consideration for the processed Secured Goods, is hereby assigned to us. The Customer is entitled to resell or otherwise use the Secured Goods only if it is certain that the claims arising therefrom will pass to us.
 - c) If the assigned claim is incorporated into a current account, then the Customer hereby agrees to assign to us a portion of the balance (including the corresponding portion of the closing balance) from the current account in an amount equal to such claim. If interim balances are netted and the parties agree to carry forward the resulting balance, then the claim from the interim balance to which we are entitled based on the foregoing provision, will be deemed assigned to us.
 - d) The Customer is authorized to collect the claims assigned to us, until we have revoked such authority. As long as we have retained ownership, the Customer shall treat and hold the Secured Goods in a safe and careful manner, to the extent it exercises dominion over them. During the period in which title is retained, the Customer may neither pledge nor create a security interest in the Secured Goods. An action taken against the Secured Goods by third parties – such as pursuant to an attachment or governmental seizure – as well as any damage to or destruction of the Secured Goods must be promptly notified to us in writing. The Customer shall be responsible for all costs required to stop the action taken against the Secured Goods or to replace the Secured Goods, provided they cannot be confiscated by third parties. If the Customer breaches the duty to treat the Secured Goods with care and any other duties of care and if there is a default in the payment of the secured claims, then we will be entitled to repossess the Secured Goods. The repossession will constitute a rescission of the agreement only if we indicate such in writing. Following repossession, we may sell the Secured Goods, whereby the proceeds from the sale will be set off against the Customer's debts (less any reasonable costs of realisation). The same rule shall apply in all cases involving the Customer's breach of contract. If the realisable value of the collateral exceeds the secured claims by more than 10%, then upon the Customer's request, we will release the excess collateral in accordance with its instructions. If the retention of title is not valid under the laws of the Customer's country, either in whole or in part, then our aforementioned rights will be limited in scope to that permitted by law.

9. Copyright, Trademarks

- 9.1 Unless otherwise expressly agreed, we will retain the reproduction right and copyright in all printing materials, drafts and outlines prepared by us.
- 9.2 No draft may be reproduced or copied without our prior written consent.
- 9.3 Trademarks may be used in connection with products that are processed or manufactured by the Customer only with the special written consent of the trademark holder.
- 9.4 If, in discharging the order pursuant to the directives and requests of the Customer, third party intellectual property rights are infringed, then the Customer shall be liable for all infringement claims arising therefrom.

10. Confidentiality

- 10.1 The contracting parties covenant to treat as confidential for an indefinite period any and all information to which each becomes privy in connection with the Agreement and which is marked as confidential or which, on the basis of its circumstances, is identifiable as a business or trade secret, and agree not to record or otherwise exploit such information – to the extent it is not required to meet the contractual purpose.

11. General Provisions

- 11.1 To the extent the Agreement is executed with contracting partners that qualify as entrepreneurs, governmental legal entities or special governmental funds, the judicial forum for all disputes arising from this contractual relationship shall be Wiesbaden. This shall also apply to any lawsuits brought in expedited legal proceedings involving instruments and commercial paper.
- 11.2 Should any provision of these Standard Terms and Conditions of Sale or any portion thereof be or become invalid, then the validity of the remaining provisions and the validity of the contract executed with the Customer will not be affected thereby.