

Standard Terms and Conditions of Business of Compact Power Motion GmbH

1. Scope and Form

- 1.1. These Standard Terms and Conditions of Business (“Terms & Conditions”) of Compact Power Motion GmbH, FeringasträÙe 11a, 85774 Unterföhring (“supplier”) apply to all business relationships with our customers (“customer”). These Terms & Conditions apply if the customer is an entrepreneur (§ 14 of the German Civil Code (*Bürgerliches Gesetzbuch* – BGB), a legal person under public law or a special fund under public law.
- 1.2. Unless otherwise agreed, the Terms & Conditions apply as a framework agreement in the version valid at the time that the customer places an order with the supplier, in any case, in the most recent version supplied in “text form” (in writing without a formal signature). They also apply as a framework agreement to future contracts without it being necessary for the supplier to make reference to them again in each individual case.
- 1.3. These Terms & Conditions apply exclusively. Any provisions of the customer’s standard terms and conditions of business which conflict with, vary from or add to these Terms & Conditions will only become applicable if and to the extent that the supplier has expressly consented to these. Such consent will, in any case, also be required, for example, if the supplier provides its goods and services without reservation despite being aware of the customer’s standard terms and conditions of business.
- 1.4. Where any specific agreements are made with the customer (including ancillary agreements, supplementary agreements and amendments) on an individual basis, they will in all circumstances take precedence over these Terms & Conditions. Subject to any evidence to the contrary, a written contract or the supplier’s written confirmation will be sufficient evidence of the content of such agreements.
- 1.5. Any legally significant declarations or notices by the supplier in relation to the contract (e.g. notices of deadlines, notification of defects, rescission or a reduction of the price) must be made in writing, i.e. in written form or text form (e.g. letter, e-mail or fax). The foregoing is without prejudice to statutory form requirements and other forms of evidence, in particular where there is any doubt as to the authority of the declarant.
- 1.6. Any reference to the application of statutory provisions are only for the purposes of clarification. Even without such clarification, statutory provisions apply to the extent that the Terms & Conditions do not directly alter or expressly exclude them.

2. Conclusion of Contract

- 2.1. Quotations made by the supplier are subject to change and non-binding. The same applies where the supplier has provided the customer with catalogs, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents – including those in electronic form. Supplier reserves its title and its rights under copyright or property law in respect of such documents. The customer is only permitted to copy, use or transfer the aforementioned if it has first obtained the supplier’s express written consent.
- 2.2. The order placed by the customer constitutes a binding contractual offer. Unless the order provides otherwise, the supplier is entitled to accept this offer to contract within 2 weeks of its receipt.
- 2.3. The supplier will accept the offer in writing by issuing an order confirmation, for example, via e-mail.

- 2.4. If they have not already done so, the parties will, at the latest, after the acceptance of the order and with retrospective effect to the beginning of their cooperation conclude a non-disclosure agreement whose content corresponds to that of the "NDA Compact Power Motion" in its most recent version. The supplier may refuse to perform its duties under the contract until such a non-disclosure agreement has been concluded.

3. Subject Matter of Contract; Supply of Goods and Services

- 3.1. The supplier will provide planning, design and engineering services for developing prototypes or improving technical products or systems, in particular in the field of electric motors, generators, actuators and controllers (hardware/software). It will carry out feasibility studies in accordance with the customer's instructions and provide support with regard to the design and engineering of prototypes.
- 3.2. The scope of work of each contract ("project") is based on the specifications contained in the supplier's quotation and its order confirmation.
- 3.3. Unless otherwise agreed, the supplier will set the schedule for the services provided giving due consideration to the customer's interests. The supplier may deliver its work in installments.

4. Creation of Prototypes

- 4.1. The supplier also offers to create initial prototypes in connection with the services that it provides. Prototypes are products (1) for which no specifications or no agreements regarding specifications exist or (2) which are delivered for testing purposes or (3) which are defined as such in the relevant quotation or order confirmation by the supplier or (4) which have been designated as prototypes by both parties.
- 4.2. Where the work includes the creation of prototypes, the technical specifications defined in the supplier's quotation constitute non-binding target values. The supplier may deviate from these target values, in particular if, from a technical standpoint, the creation of the prototype would otherwise be impossible.
- 4.3. Any tools used for creating prototypes will remain within the supplier's sphere of control and remain the property of the supplier even if they have been invoiced to the customer in full or in part. The supplier reserves the right to freely dispose of tools that have been paid for in full or in part provided they have not been used for 2 years.
- 4.4. Unless the parties have agreed otherwise, the price for items does not include packaging. Unless the parties have agreed otherwise, the supplier will make the prototypes available ex works (EXW Incoterms 2010).

5. Supplier's Duties

- 5.1. The supplier is obliged to carry out all activities of a technical, administrative and commercial nature, which are necessary for duly performing its tasks in an efficient manner having due regard to the current state of the art.

6. Customer's Duties

- 6.1. The customer will actively support the success of the project in each of its phases by cooperating in an appropriate manner. This will include, but not be limited to providing the supplier with the information, documents, data, measurements, computer programs and other resources necessary for duly executing the project and, where required, allowing the supplier's employees access to its premises and plants during business hours insofar as this is necessary for achieving the purposes of the contract.

- 6.2. The customer may only use prototypes in order to test their qualities and performance in its own business and operations in conjunction with other hardware components and to investigate their possible use in/with its products. The customer is not permitted to use them beyond the scope described above. The supplier does not grant the customer any further rights to the prototype or the intellectual property rights embodied therein or to know-how, inventions or ideas. The customer is not permitted to register intellectual property rights of its own in respect of the prototypes based on the knowledge derived from tests with the prototype. Nor is it permitted to grant any rights in respect of the prototype to a third party.
- 6.3. Where the customer does not fulfill its duty to cooperate and if the supplier is, as a result thereof, not able to conclude the project or parts of it within the agreed time, the agreed time period will be extended accordingly. The supplier is entitled to demand compensation from the customer for those expenses which it incurred due to the customer's failure to cooperate.

7. Remuneration

- 7.1. The customer will pay the supplier for the services described in section 3 in accordance with the prices and payment conditions set out in the quotation. If the customer did not request a quotation for the supplier's services or if the quotation does not contain any payment provision, the supplier's current prices at the time of the conclusion of the contract apply.
- 7.2. Unless otherwise agreed, the supplier's remuneration is due and payable within 30 days from the date of its invoice. The supplier's invoices are payable in full.
- 7.3. At the end of the above 30-day period, the customer will be in default. If the customer is in default, default interest at the respective statutory rate shall apply. The supplier reserves the right to claim additional default damages. With respect to merchants (Kaufmänner), the right to a commercial default interest shall remain unaffected (§ 353 of the Commercial Code (*Handelsgesetzbuch* – HGB)).
- 7.4. The customer may only exercise a right of set-off or a right of retention if its claim is non-appealable legally established or undisputed.
- 7.5. If, after the conclusion of contract, it becomes apparent (e.g. through a petition for the commencement of insolvency proceedings) that the supplier's claim for remuneration is in jeopardy due to the customer's inability to pay, the supplier will be entitled by law to withhold performance of its obligations and to rescind the contract (§ 321 of the German Civil Code (*Bürgerliches Gesetzbuch* – BGB)). Where the services provided by the supplier relate to the production of non-fungible goods (custom-built products) or other services (evaluations and feasibility studies), the supplier may rescind the contract immediately; the statutory provisions regarding the dispensability of setting a deadline will remain unaffected.

8. Changes in the Scope of Work / Adjustment of Remuneration

- 8.1. The work will be executed on the basis of the documents, information and technical data which the customer made available at the time the quotation was prepared and which are shown in the quotation or other contractual documents.
- 8.2. If the customer wishes to make changes to the supplier's scope of work shown in the quotation, which will alter the specific services with some not being required and others being added, the supplier will submit an updated quotation to the customer within a reasonable period of time, taking into account the necessary technical and schedule changes and an adjustment of the costs accordingly. However, the supplier will only do so if this is feasible for the supplier with respect to the amount of work, the requested deadlines and compatible with the supplier's other services. If the customer does not reject the updated quotation within 2 weeks from its receipt, it will be deemed to have hired the supplier to carry out the amended or new services. If

the customer rejects the updated quotation, the scope of work previously agreed upon will continue to be valid. Both parties may, however, terminate the project within an additional time period of 2 weeks. In this event, the supplier will be entitled to demand payment of the agreed remuneration, but will allow set-off against such remuneration for savings resulting from the rescission of the contract or for income generated through other work or for income for work that could have been generated. It shall be presumed that the supplier will then be entitled to compensation for all costs for materials, subcontractors and similar already made expenses plus 10% of the amount of remuneration payable for the remainder of the work not completed.

- 8.3. Subject to the provision in section 8.2, the contract may otherwise not be terminated except for cause in the sense of § 648 of the German Civil Code.

9. Subcontracting

- 9.1. To the extent that the supplier does not perform the tasks assigned to it itself, it may subcontract all or parts of their performance to a third party. Unless the use of a subcontractor was stated in the quotation, the supplier may only use a subcontractor after it has obtained the customer's written consent. This does not apply if the subcontractor is an affiliated company of the supplier. The customer may only withhold its consent for good cause.
- 9.2. Affiliates of the supplier within the meaning of section 9.1 include, but are not limited to, companies belonging to the Sonceboz Group and in particular SONCEBOZ SA, Rue Rosselet-Challandes 5, CH-2605 Sonceboz, Switzerland, Sonceboz Mechatronics Boncourt SA, Rue des Boulaies 7, 2926 Boncourt, Switzerland, Sonceboz Automotive SA, Rue Rosselet-Challandes 5, 2605 Sonceboz, Switzerland, and Moving Magnet Technologies S.A., 1, rue Christiaan Huygens, 25000 Besancon, France.

10. Events of Default

- 10.1. If the supplier fails to perform its obligations under this contract at all, in a timely manner, in full or properly, the customer may once, without prejudice to any of its statutory rights, grant the supplier in writing a reasonable grace period for the fulfillment of its contractual obligations. If the supplier does not fulfill its obligations within this period, the customer shall be entitled to perform the work itself or have a third party perform it at the supplier's expense. Sentences 1 and 2 only apply if the supplier is at fault.
- 10.2. If a force majeure event prevents the parties from performing all or some of their obligations, the parties will be released from fulfilling this contract until the force majeure event has ended. The party affected by the force majeure event must notify the other party of such event without delay. The type of remedial action to be taken shall be coordinated between the parties. Force majeure includes, but is not limited to war, civil unrest, earthquakes, explosions and fire; strikes, legally permissible lockouts and other circumstances for which neither party is responsible will be treated as equivalent to force majeure.

11. Exclusion of Liability for Defects in the Case of Prototypes

- 11.1. Prototypes are provided on an "as is" basis for the purposes of the customer's internal product development. They are only intended for trials and internal demonstrations and are not intended to be integrated into marketable products. The customer will only use the prototypes during its own product development and at its own risk. The prototypes are supplied purely for testing purposes and under the exclusion of warranties and liability. The prototypes have not yet been fully developed or tested. The supplier gives no warranties and accepts no liability regarding the proper functioning of the prototypes or the correctness or completeness of the technical data on which the quotation is based upon.

- 11.2. If the customer nonetheless markets the prototypes or integrates them in its sales products, it will assume all related risks and waive any liability claims.
- 11.3. The customer will, upon first demand, indemnify the supplier against any claims brought by a third party arising from or in connection with the supply of the prototypes. This applies in particular to damage claims arising from or in connection with the production and delivery of the prototypes by the supplier and the use of the prototypes by the customer regardless of the legal basis of the claims.
- 11.4. The supplier excludes all liability from or in connection with the supply of the prototypes. The above exclusion of liability does not, however, apply if the supplier has fraudulently concealed a defect or has guaranteed that the work has certain qualities, is guilty of intentional wrongdoing or has caused injury to life or limb or impairment of health. Nor does it apply to claims by the customer pursuant to the Product Liability Act (*Produkthaftungsgesetz*).

12. Other Liability

- 12.1. Unless provided otherwise in these Terms & Conditions, including the provisions set forth below, the supplier's liability for any breach of contractual or non-contractual obligations will be subject to statutory provisions.
- 12.2. The supplier is liable to the customer for damages – regardless of the legal basis – where its liability is fault-based and where the supplier acts intentionally or with gross negligence. Subject to any more lenient standard of liability provided by law (e.g. care in the performance of one's own affairs), the supplier will in case of simple negligence only be liable for
 - a) damages arising from injury to life or limb or impairment of health
 - b) damages from a not insignificant breach of a material duty whose performance is in itself a prerequisite for the proper execution of the contract and upon whose performance the other party regularly relies and may rely; in this case, our liability will be limited to the compensation of the foreseeable damage that normally occurs in comparable situations.
- 12.3. The limitations on liability under section 12.2 also apply in the case of breaches of duty by and to the benefit of persons for whose intentional wrongdoing or negligence the supplier is liable according to statutory provisions. The above-mentioned limitation of liability does not, however, apply if the supplier has fraudulently concealed a defect or has guaranteed that the work has certain qualities or for claims by the customer pursuant to the Product Liability Act.
- 12.4. Where there is a breach of duty that does not relate to a defect, the customer may only rescind or terminate the contract if the supplier is liable for the breach. Any right on the part of the customer to freely terminate the contract for convenience (in particular pursuant to § 648 of the German Civil Code) is excluded. Apart from that, statutory requirements and legal consequences apply.

13. Intellectual Property Rights, Reservation of Title

- 13.1. The supplier reserves title to the prototypes delivered to the customer until it has received payment in full. Before making payment, the customer is not permitted, without the consent of the supplier, to use the prototypes for testing purposes, in particular to install them in other machinery or equipment.

14. Limitation Period

- 14.1. The general period of limitation for claims arising from defects in quality and for defects in title is one year and commences with the delivery of the good or service. Where the parties have

agreed on an acceptance procedure, the limitation period begins when the work has been accepted.

- 14.2. The above-mentioned limitation period also applies to contractual and non-contractual damage claims by the customer which are based on the existence of defects in the goods or services unless the application of the ordinary statutory limitation periods (§ 195 and § 199 of the German Civil Code) would lead to a shorter limitation period in an individual case. Any damage claims by the customer for fault-based liability due to the supplier's intentional wrongdoing or gross negligence, for injury to life or limb or impairment of health or pursuant to the Product Liability Act will, however, become time barred solely in accordance statutory limitation periods.

15. Final Provisions

- 15.1. Any changes to the legal form, management or controlling interests in respect of the customer, must be notified in writing without delay.
- 15.2. These Terms & Conditions and the contractual relationship between the supplier and the customer are governed by and construed in accordance with the laws of the Federal Republic of Germany excluding the UN Convention on the International Sale of Goods (CISG).
- 15.3. In the event that the customer is a merchant within the meaning of the Commercial Code, a legal person under public law or a special fund under public law, the courts at the place where the supplier's registered office is located, namely Munich, will have exclusive jurisdiction over any disputes, including disputes of an international nature, which arise directly or indirectly from or in connection with the contractual relationship. The same will apply if the customer is an entrepreneur within the meaning of § 14 of the German Civil Code. The supplier will, however, also be entitled in all cases to commence legal action against the customer before the courts which have general jurisdiction for the customer. The foregoing is without prejudice to any overriding statutory provisions, in particular regarding exclusive jurisdiction.

Current at: Rev. 01/2019

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