

General Terms and Conditions of Sale and Delivery

1. General

1.1. These Terms and Conditions of Sale and Delivery apply to all supplies and services by CONNOVA Group (Connova AG and Connova Deutschland GmbH), especially, if the customer places regular orders to CONNOVA. Any contradictory conditions of the customer shall be invalid.

1.2. All agreements and material declarations by the contracting parties must be made in writing.

1.3. Quotes without an acceptance period are not binding.

1.4. The contract with the customer will come into being upon written acceptance by CONNOVA.

1.5. Electronic signatures that comply with the state-of-the-art and applicable laws are permitted and binding. Where possible they will replace a physical signature.

1.6. If any provision of these terms of supply should prove to be wholly or partially ineffective or impractical, the contracting parties will replace this provision with a new agreement that most closely approximates their legal and business success.

2. Scope of supply and services

2.1. The supplies and services by CONNOVA are listed exhaustively in the order confirmation, including any annexes. CONNOVA is authorized to make changes which lead to improvements insofar as these cause no increase in prices.

2.2. Goods supplied by the meter are subject to over- or under-supply of up to 10% of the order. If a certain minimum quantity is required, this must be specifically noted in the order and a supplement paid.

3. Plans, technical documents and tools

3.1. Unless otherwise agreed, brochures and catalogues are not binding. Details in technical documents are only binding if this is explicitly assured.

3.2. Each contracting party reserves all rights to plans and technical documents it provides to the other party. The receiving party acknowledges these rights and will not disclose the documents in full or in part to third parties without the prior written consent of the other contracting party or use them for any purpose other than the one for which they were supplied.

3.3. Tools and moulds of any type, with the exception of those provided by the customer, will always remain the property of CONNOVA.

3.4. If no special terms have been agreed between CONNOVA and the customer in respect of tools and moulds, then the following will apply: CONNOVA will bear the storage costs during the first 12 months after the first delivery of products, thereafter the storage costs will be fully borne and paid at the beginning of each calendar year by the customer. Maintenance and care costs will be borne in all circumstances by the customer.

4. Regulations in the destination country and safety devices

4.1. The customer must make CONNOVA aware of the regulations and standards relating to the execution of the supplies and services no later than on receipt of the quotation.

4.2. Unless otherwise agreed, the supplies and services will comply with the regulations and standards at the domicile of the customer, which the latter has brought to the attention of CONNOVA in accordance with section 4.1. Additional or other safety regulations will be complied with insofar as this has been explicitly agreed.

5. Prices

5.1. Unless otherwise agreed, all prices are net, ex works (current applicable Incoterms), exclusive of packaging, in cleared Swiss francs, with no deductions.

All ancillary costs such as for freight, insurance, export, implementation, import and other permits will be at the customer's expense.

The customer must also pay all types of taxes, duties, charges, customs fees etc. that are levied in relation to the contract or reimburse CONNOVA for these, with appropriate evidence, if CONNOVA has to pay them.

5.2. CONNOVA reserves the right to adjust prices if rates of pay or material prices should change between the time of quotation and contractual fulfilment. In this case, prices will be adjusted in line with inflation.

A reasonable price adjustment will also be made if

- the lead time is subsequently extended for one of the reasons cited in sections 6.3, 8.1 and 8.3 or
- the nature or scope of the supplies or services have changed or
- the design, material and/or execution has changed because the documents supplied by the customer did not correspond with the actual circumstances or were incomplete or because notification by the customer of regulations or standards in accordance with 4.1 was late.

6. Terms of payment

6.1. Unless otherwise agreed, payments by the customer must be made 10 days from invoice date, net without deduction of discounts, expenses, taxes, duties, charges, customs fees etc.

6.2. Payment due dates must also be respected if transport, delivery, assembly, commissioning or acceptance of the supplies or services are delayed or become impossible for reasons not attributable to CONNOVA or if minor parts are missing or if additional work proves to be necessary but do not make it impossible to use the supplies or services.

6.3. If any agreed deposit is not paid as per contract, CONNOVA will be entitled to enforce the contract or withdraw from the contract and, in both cases, to demand compensation.

6.4. If the customer fails to meet the agreed payment due dates, late payment interest will be due without reminder from the due date at the rate imposed by Swiss banks for unsecured current account loans, but at least 8%. Payment of late payment interest will not exempt the customer from its duty of payment, its other contractual obligations or its obligation to pay compensation.

6.5. Offsetting mutual claims arising from or in connection with this contract is only possible with an acknowledged or legally enforced counterclaim.

7. Reservation of title

7.1. CONNOVA will retain title to all its supplies and services until it has received payment in full in accordance with the contract. The customer undertakes to help fulfil the mould requirements at the first request.

8. Lead time

8.1. The lead time begins as soon as the contract is concluded, all official formalities such as import and payment permits have been obtained, the payments and any securities to be provided on order have been rendered and the technical points have been clarified. The lead time is deemed to have been met if, by the end of the lead time, the ready for shipping messages have been sent to the customer or CONNOVA has demonstrated that it is ready to provide the services.

8.2. A pre-requisite for compliance with the lead time is fulfilment of the contractual obligations in particular the payment and co-operation obligations by the customer, with no cost consequences for CONNOVA.

8.3. The lead time will be extended by a reasonable time:

- if CONNOVA does not receive the information required to fulfil the contract in good time or if the customer changes them subsequently, causing a delay in the supplies or services
- if impediments arise which CONNOVA cannot avert despite taking due care, irrespective of whether these occur at CONNOVA, the customer or a third party. Such impediments include epidemics, mobilization, war, insurrection, major operational disruptions, accidents, industrial disputes, late or faulty supply of the necessary raw materials, semi-finished or finished products, proved rejection of important work pieces, official measures or prohibitions, natural events
- if the customer or third party defaults on fulfilling their contractual obligations arising from this contract or previous orders, in particular if the customer fails to comply with the terms of payment.

8.4. If a particular date is agreed instead of a lead time, this is equivalent to the last day of a lead time; sections 8.1 and 8.3 apply accordingly

8.5. The customer will not be entitled to withdraw from the contract or have any other claims such as a price reduction or compensation due to delay in delivery or service provision. This restriction does not apply to unlawful intent or gross negligence on the part of CONNOVA, but does apply to unlawful intent or gross negligence of auxiliary persons.

9. Shipping, transport and insurance

9.1. The risk and benefit for pure delivery contracts shall pass to the customer no later than on shipping of the supplies ex works or, for works (supply) contracts, no later than at the start of use of the supplies and services.

9.2. If shipping is delayed at the customer's request or for other reasons not attributable to CONNOVA, the risk transfers to the customer at the time originally planned for shipping ex works. From this time on, the supplies will be stored and insured at the customer's expense and risk.

10. Shipping, transport and insurance

10.1. Any special requests in respect of shipping, transport and insurance must be notified to CONNOVA no later than at the time of order. Transport is ex works (Incoterms, latest version) at the customer's expense and risk.

The customer must direct any complaints relating to the shipping or transport to the last freight driver without delay on receipt of the supplies or freight documents.

10.2. Insurance against damage of any type is the responsibility of the customer.

11. Inspection and acceptance of the supplies and services

11.1. CONNOVA will inspect the supplies and services with its usual care prior to shipping or service provision. If the customer demands further inspections, these must be agreed separately and paid for by the customer.

11.2. The customer must inspect the (part) deliveries and (partial) services within a reasonable period and notify CONNOVA of any defects without delay and in writing. If it fails to do this, the (part) deliveries and (partial) services will be deemed to have been accepted.

11.3. CONNOVA must rectify any defects notified to it in accordance with section 11.2. as quickly as possible and the customer must give it the opportunity to do so. After rectification, an acceptance test will be performed at the request of the customer or CONNOVA.

11.4. The supply or service is also deemed to have been accepted once the customer uses or is able to use CONNOVA's (part) deliveries or (partial) services.

11.5. Defects of any type in (part) deliveries or (partial) services will not give the customer any rights or claims except those explicitly cited in section 11 and section 12 (warranty, liability for defects).

12. Warranty, liability for defects

12.1. Warranty period

The warranty period for any types of CONNOVA products such as components, moulds and tools is 24 months. The period begins on the shipping day of the supplies ex works. If shipping is delayed for reasons not attributable to CONNOVA, the warranty period will end no later than 26 months after the date the ready for shipping message has been sent. In case of CONNOVA services, the warranty commences on completion of the service provision and lasts 12 months. The warranty period for repairs of any kind of CONNOVA products such as components, moulds and tools is 12 months. The period begins on the date when repaired products leave the factory or after notification of the repair on site at the customer.

The warranty will expire prematurely if the customer or third party makes improper changes or repairs or if, in the event that a defect has occurred, the customer fails to take appropriate damage-limitation measures immediately and / or does not give CONNOVA the opportunity, in writing, to rectify the defect.

12.2. Liability for defects in materials, design and execution

CONNOVA undertakes, at the written request of the customer and excluding any other claims, to repair or replace at its discretion as quickly as possible any parts of CONNOVA supplies that become unusable prior to expiry of the warranty period that is proven to be due to poor materials, faulty design or defective execution.

Replaced parts will become the property of CONNOVA. CONNOVA will bear the costs of replacement or repair incurred in its works. Costs of replacement and repair outside the CONNOVA works will be borne by the customer.

CONNOVA undertakes, at the written request of the customer and excluding any other claims, to rectify or replace at its discretion as quickly as possible any CONNOVA services that become harmful or unusable prior to expiry of the warranty period that is proven to be due to defective execution.

12.3. Liability for warranted properties

Liability for warranted properties is only accepted for those properties that are explicitly designated as such in the order confirmation. The warranty shall apply only until expiry of the warranty period at the latest, unless a longer period has been warranted.

If the warranted properties are not fulfilled or are only partially fulfilled, CONNOVA will be entitled to perform improvement work. The customer must give CONNOVA the necessary time and opportunity to do so.

If this improvement fails or is only partially successful, the customer can claim a reasonable price reduction.

12.4. Exclusion of liability for defects

CONNOVA's warranty and liability excludes damage to products supplied by CONNOVA which can be proven not to be due to poor materials, faults design or defective execution e.g. damage as a result of wear (such as breakages and general wear as well as due to overload, weather conditions, air pollution, EMC), defective maintenance, failure to comply with operating instructions, excessive stress, unsuitable resources, chemical or electrolytic influences, interference with other products, systems or services or due to other reasons not attributable to CONNOVA.

12.5. Supplies and services of sub-contractors

In respect of supplies and services by sub-contractors specified by the customer, CONNOVA will only offer a warranty within the framework of the respective sub-contractor's warranty obligations.

12.6. Exclusivity of warranty claims

The customer shall have no rights or claims due to defects in materials, design or execution or absence of warranted properties except those explicitly cited in sections 12.1 to 12.5, and in particular, the customer shall have no claims to annulment or compensation.

12.7. Liability for secondary obligations

CONNOVA will only accept liability for claims by the customer due to defective advice etc. or due to infringement of any secondary obligations in the event of unlawful intent or gross negligence.

12.8. The warranty rights and defences cannot be ceded to third parties without the prior written consent of CONNOVA.

12.9. The customer will follow CONNOVA's regulations on returns of goods under warranty or for repair (Repair and Replacement Procedure).

13. Software

13.1. Any software supplied by CONNOVA will remain the property of CONNOVA or its licensor. The customer will be granted a personal, non-exclusive, non-transferable license to use the software in direct connection with the supplied goods. The customer acknowledges the confidential nature of the software.

13.2. The warranty for software is limited to defects that cause unacceptable defects in the functioning of the goods supplied with the software. CONNOVA will take acceptable measures to replace the software with software that is free of defects.

13.3. Section 12 applies accordingly.

14. Assembly / Commissioning

14.1. If CONNOVA undertakes to perform the assembly/installation, supervision/site management of the assembly/installation or the commissioning, only CONNOVA's General Assembly Conditions will apply.

15. Non-performance, poor performance and consequences thereof

15.1. In all cases of poor performance or non-performance that are not otherwise governed in these conditions, in particular if, for no good reason, CONNOVA starts to execute the supplies and services so late that completion on schedule can no longer be foreseen, if execution contrary to contract is definitely foreseeable for reasons attributable to CONNOVA or if supplies and services are executed contrary to contract for reasons attributable to CONNOVA, the customer shall be authorized to set CONNOVA a reasonable deadline for compliance on penalty of withdrawal from the contract if it should fail to do so. If this deadline for compliance is not met for reasons attributable to CONNOVA, the customer can withdraw from the contract in respect of the supplies or services that have been executed contrary to contract or for which this can definitely be foreseen, and to claim back any payments that have already been made in respect of the unused portion.

15.2. In such a case, the provisions of section 16 will apply in respect of any claim for compensation by the customer and exclusion of further liability and the claim for compensation will be limited to 10% of the contract price for the supplies and services for which the customer has withdrawn from the contract.

16. Exclusion of further liability

16.1. The customer shall have no other claims than those explicitly cited in these conditions, irrespective of the legal grounds on which they are based, in particular any claims for compensation, price reduction or withdrawal from the contract that are not explicitly cited. Under no circumstances shall the customer have any claim to compensation for harm that has not occurred to the supplied object itself, such as production stoppage, loss of use, loss of orders, loss of profit or any other direct or indirect harm. These restrictions do not apply to unlawful intent or gross negligence by CONNOVA, but they do also apply to unlawful intent or gross negligence of auxiliary persons.

16.2. CONNOVA assumes no liability for materials, components, panels and parts which have been delivered to CONNOVA by the customer for further manufacturing or processing.

All claims of the customer with respect to the damage caused to materials, components, panels, components and parts, which were supplied by the customer or its suppliers to CONNOVA, and which are the result of faulty design or defective execution at CONNOVA, are excluded.

CONNOVA will fully pay for cost of repair, improvement or new execution of work and services which are incurred in its own factory. Cost of replacement of delivered materials, components, panels and parts and repair outside CONNOVA are explicitly paid and borne by the customer..

17. Part deliveries and partial services

17.1. If part deliveries are to be made, the acceptance and warranty based on these conditions will be applied separately. The same applies if services are provided which are or can be used by the customer in steps.

18. Return of packaging material and disposal

18.1. The customer is not entitled to return packaging materials or to disposal of products supplied by CONNOVA.

18.2. CONNOVA will take back packing cases with no reimbursement of costs providing they are returned to CONNOVA carriage free and in perfect condition.

19. CONNOVA's right of recourse

19.1. If actions or inaction by the customer or its auxiliary persons should injure persons, damage the property of third parties or should any other harm arise and claims are made against CONNOVA as a result, the latter shall have a right of recourse against the customer. The customer shall hold CONNOVA harmless.

20. Translation

20.1. If there should be discrepancies between text in German and those not in German, the German text shall prevail exclusively.

21. Jurisdiction and applicable law

21.1. If there should be discrepancies between text in German and those not in German, the German text shall prevail exclusively.

21.2. The legal relationship is subject to the material Swiss law. The UN Convention on Contracts for the International Sale of Goods of April 11, 1980 shall not apply.

Last update: August 2020