

GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS OF COMPAÑERO BV, POSTBUS 43030, NL-3540 AA UTRECHT, THE NETHERLANDS. THE FULL TEXT OF THESE GENERAL TERMS AND CONDITIONS OF DELIVERY WILL BE POSTED FREE OF CHARGE UPON REQUEST AND IS AVAILABLE ONLINE AT WWW.COMPAÑERO.NL

1. Definitions

1.1 The definitions listed in the General Terms and Conditions are capitalised at all times:

General Terms and Conditions	These General Terms and Conditions
Compañero BV	The party using the General Terms and Conditions
Customer	The other party to Compañero, acting in the course of a profession or business

2. General details

2.1 The General Terms and Conditions apply to any quotations provided by Compañero, to any agreements entered into between Compañero and its Customer, and to any deliveries made pursuant to this agreement.

2.2 Any clauses contained in agreements entered into between Compañero and its Customer that depart from the General Terms and Conditions are binding on Compañero only if and to the extent that these clauses have been agreed between the parties in writing.

2.3 If one or more provisions of the General Terms and Conditions are invalid or are annulled, the other provisions of the General Terms and Conditions will remain in full force and effect. In that case, Compañero and the Customer will consult with one other, in order to agree on new provisions to replace the null or invalid ones, where the purpose and meaning of the original provision must be respected.

2.4 The applicability of any terms and conditions of the Customer is hereby expressly dismissed.

2.5 The General Terms and Conditions have been filed with the Utrecht Chamber of Commerce and Industry. The most recently filed version always applies, or the version applicable at the time the agreement was formed.

3. Quotation

3.1 Any quotation provided by Compañero is without obligation and will remain valid for 30 days from the date it was issued, unless otherwise specified by Compañero or otherwise agreed in writing by Compañero and its Customer.

3.2. The prices stated in the quotation are in euros and are exclusive of VAT, other government charges, shipping costs, and any transport and packaging costs, unless expressly otherwise specified.

3.3 A combined quotation does not oblige Compañero to deliver a portion of the goods included in the quote in exchange for a corresponding portion of the price specified.

3.4 Quotations provided by Compañero do not automatically apply to repeat orders.

4. Formation of the agreement

4.1 The agreement will be deemed to have been formed following the written or verbal acceptance by the Customer of a quotation provided by Compañero.

4.2 Compañero cannot be bound by its Customer to the latter's quotation, unless Compañero, based on the principles of reasonableness and fairness and on generally accepted standards, could have known that the quotation, or a portion thereof, contains a manifest inaccuracy or clerical error.

5. Delivery

5.1 The Customer will be required to purchase the goods at such time as Compañero delivers the goods to the Customer or arranges for a third party to do so on its behalf, at the time and in the manner described in the quotation, unless otherwise agreed between the parties.

5.2 From the time of delivery to the Customer, the goods will be at the Customer's risk.

5.3 If delivery is made based on Incoterms, these Incoterms will apply at the time the agreement is entered into.

5.4 If the Customer refuses to purchase the goods or is negligent in providing information or instructions necessary for delivery, Compañero will be authorised to store the goods at the Customer's risk and expense. Following a period of 30 days, Compañero will be authorised to sell the goods to a third party or otherwise gain access to the goods.

5.5 If the goods are delivered, Compañero will be authorised to charge the Customer delivery costs; these costs will be invoiced separately.

5.6 If Compañero requires information from the Customer in the performance of the agreement, the delivery time will commence after the Customer has provided this information to Compañero.

5.7 The delivery time agreed between Compañero and the Customer is provisional.

5.8 In the legal relationship between Compañero and the Customer, failure to comply with the agreed delivery time does not provide grounds for termination of the agreement or for claiming compensation.

5.9 Compañero will be authorised to deliver the goods in portions, unless otherwise provided for in the agreement.

5.10 If it has been agreed that the agreement will be performed in stages, Compañero will be entitled to suspend the performance of those portions to a subsequent stage, until the Customer has effectively approved the results of the preceding stage in writing.

6. Samples and models

6.1 If the Customer is shown, or receives, a sample or model, this will be assumed to be for informational purposes only, without the actual goods being required to match the sample or model, unless it has been expressly agreed that this should be the case.

7. Inspection and complaints

7.1 The Customer undertakes to inspect the goods delivered at the time of delivery, however in any event as soon as possible. Furthermore, the Customer is required to inspect whether the quality and quantity of the goods delivered conform to the agreements made between the parties, or at least comply with the requirements imposed on such goods in standard business practices.

7.2 Any visible defects must be reported to Compañero in writing within three days following delivery. Non-visible defects must be reported within three weeks after they were detected, however no later than two months following delivery, failing which the goods delivered will be deemed to comply with the agreement and to have been accepted by the Customer.

7.3 The Customer will be required to prove that the goods to which the complaint relates are the same as those delivered by Compañero.

7.4 If the goods delivered do not comply with the agreement and the Customer, pursuant to paragraph 2 of this article, has submitted its complaint to Compañero in a timely manner, Compañero will only be required to deliver the missing item or repair the item delivered, subject to its discretion, or to replace the goods delivered or refund a proportional part of the payment.

8. Amendment of the agreement

8.1 If it becomes apparent during the performance of the agreement that, for the proper performance of the agreement, it is necessary to change and/or supplement the work to be performed, the parties will amend the agreement accordingly, in a timely manner, and by mutual agreement.

8.2 If the parties agree that the agreement is to be amended and/or supplemented, this may affect the date of completion of the performance. In such an event, Compañero will inform the Customer as soon as possible.

8.3 If the amendment and/or supplement to the agreement have any financial and/or qualitative consequences, Compañero will inform the Customer accordingly.

8.4 If a fixed rate has been agreed, Compañero will indicate to what extent the amendment or supplement of the agreement will result in an increase in the fee charged.

8.5 Contrary to the provisions of this article, Compañero will not charge any additional costs if the amendment or supplement is the result of circumstances that can be attributed to Compañero.

9. Payment and collection charges

9.1 Payment must be made within 30 days following the invoice date, by transfer to a bank account specified by Compañero.

9.2 If the term of payment specified in this article passes without payment having been made, the Customer will be in default within any notice of default being required. In that case, the Customer will be required to pay a monthly interest of 1%, unless the statutory interest rate exceeds this rate, in which case the statutory rate applies. Interest on the due and payable amount will be calculated from the time the Customer is in default up to the time the full amount has been paid.

9.3 Without express approval, the Customer will not be permitted to deduct its debt to Compañero from a claim it has against Compañero of any nature whatsoever, or to suspend its debt to Compañero.

9.4 If the Customer is in default or fails to comply with its obligations, all reasonable costs associated with ensuring compliance, both judicial and extrajudicial, will be charged to the Customer. For monetary claims, the Customer will in any event be required to pay collection charges. Collection charges are calculated in accordance with the collection rates recommended by the Netherlands Bar Association in collection practices.

9.5 If the costs incurred by Compañero exceed these rates, and these costs were reasonably necessary, they will also be eligible for compensation.

9.6 Any reasonably incurred court costs and enforcement costs will also be charged to the Customer.

10. Price increases

10.1 If Compañero can demonstrate that significant price changes occurred between the time of the offer and the time of the performance of the agreement with respect to, for example, wages, raw materials, semi-finished products, energy prices or packaging materials, Compañero will be entitled to charge these price increases on to the Customer.

10.2 If the price increase exceeds 10%, the Customer will be authorised to terminate the agreement, unless the price increase is the result of an amendment of the agreement.

11. Retention of title

11.1 Compañero will retain ownership of all goods delivered to the Customer as long as the latter has not made payment, or has not done so in full.

11.2 Under the provisions of this article, Compañero will be authorised at any time to remove the goods delivered from the Customer or its holder if the Customer has failed to comply with its obligations. In such an event, the Customer will grant Compañero or any third parties to be designated by same unconditional and irrevocable permission to access all areas where Compañero's property is stored and to arrange to have these goods removed.

11.3 The Customer undertakes to insure the goods delivered under retention of title and to ensure that they remain insured against fire, damage caused by explosion and floods, and theft, and to provide Compañero access to the insurance policy immediately on request.

11.4 The Customer undertakes to store and clearly label any goods that have been delivered but for which it has not yet paid, in order to prevent any misunderstanding as to their origin.

11.5 The Customer will not be authorised to pledge any goods subject to the retention of title or to encumber them in any other manner.

11.6 In the event that third parties seize goods that were delivered subject to the retention of title or wish to create or enforce rights on these goods, the Customer will be required to inform Compañero as quickly as may reasonably be expected.

12. Guarantee

12.1 Compañero guarantees that the goods to be delivered comply with the agreed specifications, properties and/or requirements, or, if no agreements have been made in this respect, with the specifications, properties and/or requirements imposed on these goods in standard business procedure, or, at least, which are commonly accepted.

12.2 The guarantee referred to in paragraph 1 of this article also applies if the goods to be delivered are designated for use outside the Netherlands and the Customer explicitly informed Compañero of this use in writing at the time the agreement was entered into.

12.3 The guarantee referred to in paragraph 1 of this article will be valid for a period of four (4) months following delivery.

12.4 The guarantee referred to in paragraph 1 of this article does not apply if the defect was caused by careless or improper use, or if the Customer or third parties altered or attempted to alter the goods or used them for purposes for which they were not suited, without written permission from Compañero.

12.5 The guarantee provided by Compañero for goods purchased from third parties will never extend beyond the guarantee provided to Compañero by the third party in relation thereto.

13. Suspension and termination

13.1 The agreement can be terminated with immediate effect by either party, without this party being required to pay any compensation, if: the other party's bankruptcy has been filed for or declared, or if the other party has been granted a moratorium, provisional or otherwise;

13.2 Compañero will be entitled to terminate the agreement with immediate effect, without being required to pay any compensation, if the Customer continues to fail to comply with an obligation under the agreement after it has received a written demand for payment and a notice of default, subject to a term of two weeks.

13.3 The Customer will be authorised to terminate the agreement without any right to compensation if the provisional delivery date has been exceeded by more than two (2) months.

13.4 Any claims the parties have against one another will be immediately due and payable upon termination of the agreement, without any further notice of default being required.

14. Liability

14.1 Compañero will not be liable for any damage or loss whatsoever that the Customer has suffered or will suffer as a result of failure on the part of Compañero, unless such failure can be attributed to gross negligence or wilful misconduct on Compañero's part.

14.2 In any event, Compañero's liability for any loss suffered by the Customer is limited to direct loss, subject to a maximum of the amount paid by the Customer for the products delivered by Compañero to which Compañero's failure relates.

14.3 Compañero will never be liable for any indirect loss, including consequential loss, loss of profit, lost savings, and loss resulting from business interruption.

15. Force majeure

15.1 Failure to comply with an agreement cannot be attributed to Compañero in the event of force majeure.

15.2 In these General Terms and Conditions, 'force majeure' is defined as – in addition to the definitions under the law and in case law – any external causes, either anticipated or not, that are outside Compañero's control and that prevent Compañero from complying with its obligations, including industrial action, transport problems, fire, business interruptions, and government measures, including, in any event, import bans and export bans.

15.3 'Force majeure' also includes failure to comply, or failure to comply in a timely manner, by a third party engaged by Compañero, if this third party was affected by a force majeure event.

15.4 In the event of force majeure, the Customer will not be entitled to claim compensation from Compañero for the loss it has suffered.

15.5 In the event that it is affected by a force majeure event, Compañero will be authorised to suspend the performance of the agreement or terminate the agreement in whole or in part without the necessity of court proceedings and without the possibility of being required to pay compensation.

16. Intellectual property rights

16.1 The intellectual property rights on all designs, sketches, drawings, films, software and other materials or files (including electronic files) provided by Compañero to the Customer as part of a quotation provided and/or the performance of the agreement are vested in Compañero, regardless of whether they have been provided to the Customer or to third parties, unless otherwise agreed.

16.2 The Customer will not use any designs, sketches, drawings, films, software and other materials or files (including electronic files) for any purposes other than those for which they were provided and will not reproduce them in any manner whatsoever or provide them to any third parties for review or otherwise without Compañero's express written consent.

16.3 The Customer will not be authorised to alter the goods, unless otherwise required due to the nature of the goods delivered or unless otherwise agreed in writing.

16.4 Compañero reserves the right to use any increased knowledge acquired in the performance of the work for other purposes, provided this does not involve sharing confidential information with third parties.

17. Confidentiality

17.1 Both parties shall maintain confidentiality regarding any and all confidential information they have gathered from one another or from other sources as part of the agreement. Information will be deemed to be confidential if this has been communicated by either party or if this arises from the nature of the information.

17.2 If, pursuant to a statutory provision or court decision, Compañero is obliged to provide confidential information to third parties designated by law or by the competent court, and Compañero cannot claim the right to refuse to give evidence, which right may be either statutory or recognised or granted by the competent court, Compañero will never be obliged to compensate any loss resulting therefrom to the Customer.

18. Applicable law and competent court

18.1 Any agreements entered into between Compañero and the Customer, including their performance, are subject to Dutch law. The Vienna Sales Convention (CISG) is expressly excluded.

18.2 Any disputes arising from any agreement between Compañero and the Customer or related thereto will be referred to the competent court in Utrecht.