

General Conditions and Terms of Sale and Delivery

In this document, “MPS” or the “Provider” refers to all MPS Micro Precision Systems AG entities, including MPS Microsystems, MPS Watch, MPS Décolletage, and MPS Precimed. If articles only apply or relate to a specific entity, this will be notified.

As used herein, the term “Buyer” or “Customer” means the party to whom MPS’s product is sold. The term “Product” means any product, service or project sold by MPS to the buyer.

1. General

- 1.1. These general terms and conditions of sale and delivery – GTC – apply to MPS offers, order confirmations and deliveries. Any other clauses stipulated by the customer shall not be valid without the express written consent of MPS.
- 1.2. The GTC, which are legally valid and form an integral part of the agreement, are published electronically and can be found on MPS website and online shop. The GTC published electronically shall be binding. The paper version of the GTC shall be legally valid only to the extent that it corresponds exactly to the current electronic version.
- 1.3. MPS is entitled to amend these GTC at any time. In case of discrepancy between the electronic version, available on a website or on an e-shop for example, and the original version in our quality system, the original version will prevail. The new version will be published on the internet.
- 1.4. The GTC shall become effective upon acceptance by the customer when making a purchase from the MPS e-shop or upon submission of an offer which is the object of a written order confirmation. If the GTC are not accepted, it will not be possible to purchase items from the MPS e-shop.

2. Offers and conclusion of the contract

- 2.1. 1. All contracts and orders are subject to final acceptance and confirmation at the head office of MPS:

MPS Micro Precision Systems AG, located at Chemin du Long-Champ 95, CH-2504 Bienne, Switzerland (including MPS Microsystems, MPS Watch, MPS Décolletage, MPS Precimed entities)

The contract and order shall be deemed to have been entered into upon receipt by the customer of MPS’s written confirmation stating its acceptance as well as the terms and conditions of the order.

- 2.2. 2. Any offer which does not stipulate an acceptance deadline shall not bind the emitting party.

3. Scope of suppliers

The nature and the extent of the deliveries are specified in the order confirmation of MPS; any product or service which is not included therein shall be charged in addition.

4. Regulations in force in the country of destination

The customer shall inform MPS, latest when placing its order, on the standards and regulations applicable to the products and services in the destination country.

5. Terms of payment

- 5.1. Payments by customers located in Switzerland shall be net at thirty (30) days. For deliveries to a foreign country, the terms of payment shall be indicated by MPS on its order confirmation and MPS may require the opening of an irrevocable letter of credit duly confirmed by a Swiss bank acceptable to MPS.
- 5.2. Payments shall be made by the customer without any deduction of discounts and other expenses (costs, taxes, customs duties, ...), in the currency of the invoice, on the bank account stipulated by MPS, within the deadline stipulated by MPS on its order confirmation. Other terms require prior written approval by MPS.
- 5.3. In case of late payment, MPS may immediately discontinue deliveries, and the customer will be liable to an interest “prorata temporis” at the corresponding rate then applicable in the country of destination of the order, but which may not be less than six percent (6%) per year.

6. Proprietary rights

Specificities on material goods

- 6.1. MPS shall retain its full ownership on each delivery until the full corresponding payment has been duly received by MPS on its stipulated account. The customer is required to take all necessary protective measures to protect the proprietary rights of MPS.

- 6.2. At the customer’s expenses, MPS is authorized to register its retention of ownership and maintain it until full payment of the delivered products’ purchase price.

Specificities on documentation (plans, development, brochures, patents, ...)

- 6.3. Each contracting party shall retain all property rights covering plans and technical documentation provided to the other party. The receiving party recognizes the existence of these property rights and undertakes neither to disclose them, in whole or in part, to third parties without the written prior consent of the other party, nor to use them for other purposes than those for which they have been provided.

- 6.4. 4. From this point of view, MPS retains all property rights and intellectual property rights in and to all:

- Prospectuses, prints, catalogues, brochures, flyers, ...
- Drawings, technical plans, other plans
- All other information furnished to the buyer by MPS

Those documents are intended solely for the confidential use by Buyer, shall remain the property of MPS, and shall not be used to the detriment of MPS’s competitive position.

- 6.5. Unless otherwise stated, MPS retains all intellectual property rights in and to all designs, engineering details, improvements and other data pertaining to any Product or part of any Product and to all rights of discovery, invention, patent, copyright or trademark rights arising out of work done for Buyer. Buyer expressly agrees that it will not assert any property rights therein, except the rights for itself and subsequent owners to use the Products.

- 6.6. MPS products may be protected in whole or in part by patents. To the extent that Buyer purchases only a part of a patented device, the part is intended solely for use with other MPS parts to repair or replace worn or lost parts. The purchase of MPS parts shall in no circumstance grant an implied license to use parts of a MPS patented device in combination with any other equipment.

7. Delivery and passing of benefits and risks

- 7.1. The delivery time starts running on receipt by customer of MPS’s order confirmation. If, after this date, any technical or other element relating to the order remains open, delivery time shall start running once such element has been settled in writing by the parties.

- 7.2. The delivery time shall be extended:

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- if any information required by MPS to enable performance of the order is not received within the deadline agreed, or if the customer makes any change to its order which impacts on the delivery time;
- if agreed payment terms are not met, letter of credit is opened late, or necessary import licenses are not received in time;
- if hindrances occur which MPS cannot prevent despite using the required care, regardless of whether they affect MPS or the customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilization, war, political turmoil, serious breakdown in the plant, accidents, labor conflicts, late or deficient delivery by subcontractors of raw material, semi-finished or finished products, the need to scrap important work pieces, official actions or omissions by administrative or public authorities, natural catastrophes and other cases of force majeure.

MPS shall be unable to give any guarantee in this respect and the delivery times shall be only indicative. A delay by MPS, whatever its causes, may not occasion any compensation for the customer nor result in the cancellation of the order by the customer.

- 7.3. Delivery shall take place in accordance with the provisions of the EXW Incoterm:
- EXW – Bienne (incoterm 2020)
 - EXW – Court (incoterm 2020)
 - EXW – Bonfol (incoterm 2020)

MPS does not assume any obligation or liability with respect to the loading or shipping of the Products.

- 7.4. *Specific provision regarding activities of precision-turned parts (MPS Décolletage): orders for call-off deliveries.* 4. In case of orders for call-off deliveries, delivery orders shall be given so that the last delivery can intervene no later than 12 months after date of order. Warehousing costs and default interests shall be payable for the subsequent period.

- 7.5. Specific provision regarding activities of precision turned parts (MPS Décolletage) orthopaedic surgery and traumatology (MPS Precimed): tolerance concerning delivered quantities: Quantities ordered shall be delivered with a tolerance margin of $\pm 5\%$ as being common in this industry.

8. Price, packaging, forwarding, transport and insurance

- 8.1. The price and the delivery deadline are determined by the order confirmation. Deliveries in Switzerland include the applicable VAT. For deliveries outside Switzerland, order invoices do not indicate any applicable VAT, customs duties or other charges. Customers are made aware of this during the ordering process. The customer shall be liable for these taxes, charges, duties and other fees and costs, based on the legal provisions that apply in the customer's place of residence, and the customer shall pay these amounts directly to the competent authority or body in their place of residence.
- 8.2. The prices indicated in the online store are exclusive of VAT and delivery and shipping costs. Before finalizing the order, customers receive an order summary which shows the total price, including delivery and shipping costs. For orders in foreign currencies, the exchange rate at the time of ordering is applied.
- 8.3. Appropriate price adjustments are possible when time of delivery is extended for one of the reasons mentioned in section 7.2 or if the documentation (technical plans, technical specifications, ...) provided by customer does not reflect reality, feasibility or is incomplete.
- 8.4. Except if the customer issues different written instructions sufficiently in advance to MPS, MPS will decide on the forwarder and on the type of shipment. All related costs and risks shall be charged to the customer. It is the responsibility of the Buyer to take an insurance against damage of any kind.
- 8.5. Products will be packed by MPS; special packing requirements must be specified by the customer in its order. Unless otherwise specified or agreed in writing, packing will be charged separately; it must not be returned.
- 8.6. Unless otherwise specified or agreed in writing, MPS will always insure the goods at their full value based on the invoice but at the customer's cost. All risks shall pass to the customer when the goods leave the factory of MPS.
- On receipt of the products or of the shipping documents, the customer shall immediately submit to the last carrier, with copy to MPS, any complaints in respect of transport and transport damages.

9. Inspection and taking-over of the delivery

- 9.1. The customer shall inspect the goods received within two (2) weeks after they have been received and shall immediately notify MPS in writing of any deficiencies. If the customer fails in doing so, the delivery shall be deemed to have been accepted.

MPS examines the goods and services before shipping in accordance with the customary industry practices. Should the customer require extensive inspections, these inspections shall be subject of a specific agreement and will be charged to the customer.

10. Warranty and disclaimer

- 10.1. MPS warrants for a period of one (1) year from their delivery, that products or services are free from defects in material and workmanship. If hidden defects are discovered during this period, the Buyer should immediately notify MPS in writing MPS, and MPS shall be entitled to inspect such Products and confirm the existence of a defect. If required by MPS, Buyer shall ship such defective Products, in the condition in which they were delivered and in their original packaging, to MPS at Buyer's expense. Upon inspection and confirmation of such defect by MPS, MPS shall reimburse Buyer for the cost of shipping such Product. MPS shall either, at MPS's option:
- Repair or replace the defective Product, and assumes the expense of shipping
 - Refund to Buyer the purchase price
- For all medical devices, used in operating block, if they are defective and already used, they must be returned with a decontamination certificate.
- The purchaser has no further rights in case of defect.
- 10.2. The right of the customer to bring claims due to defects in the product is limited to one year from delivery of the product.
- 10.3. Promised warranties are only those expressly specified as such in the confirmation of order of MPS; they are valid, at the latest, until the expiry of the warranty.
- 10.4. The warranty expires immediately and irrevocably if the customer or any third party undertakes any modifications or repairs or if the customer, in case of a defect, does not immediately take all appropriate steps to mitigate the damage or does not immediately inform MPS and gives MPS the possibility of remedying such defect.
- 10.5. Excluded from MPS warranty and liability for defects are all deficiencies which cannot be proven to have their origin in bad material, faulty design, poor workmanship or resulting from other reasons beyond MPS control or responsibility, such as natural wear, poor maintenance, non-compliance with condition of use, improper use, inappropriate equipment, use of chemical or electrolytic agents, construction or assembly works not performed by MPS, and any other reason not imputable to MPS.

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10.6. Defects of any nature whatsoever, related to the delivery and services do not give any right other than rights expressly mentioned in these GTC.

10.7. Claims for compensation, price reduction, termination and withdrawal of the contract not mentioned above under section 10.1 are excluded. MPS shall not be liable for:

- Any direct, indirect, consequential or incidental damages that are not arisen on the products or services sold, including damages for loss of business, of profits, production interruption and other losses, or any other similar damage
- Buyer's reliance upon any special or technical advice or instruction given by MPS regarding any product
- Buyer's reliance on any information contained in any advertisement of any product by MPS
- The cost of procurement of substitute goods by buyer.

This Article is subject to any contrary and mandatory provisions of the law, in particular the law applicable to product liability.

10.8. In no case will the damages concerning the goods delivered by MPS exceed the invoiced value of the corresponding products or services.

10.9. Except for the warranty stated in this section 10, MPS grants no other warranties for the products.

11. Samples of prototypes

11.1. If any Product is designated by MPS as a "sample" or "prototype", Buyer expressly agrees to use such Product for evaluation purposes only.

11.2. The provisions of Section 10 hereunder GTC shall not apply to such Products and Buyer agrees to accept such Product without any warranty, replacement, repair or other obligations imposed hereunder GTC.

12. Tools

Unless otherwise stated, tools specific to an order may not leave MPS workshops, even if partially or totally paid by the customer. These tools and devices needed to fulfil an order remain the exclusive property of MPS. Tooling costs arising from design modification shall be charged to the customer. Without having to advise the customer in advance, MPS may dispose freely of tools partially or totally paid which have not been used for three (3) consecutive years.

13. Indemnification

Buyer agrees to indemnify and hold MPS harmless from all liability, loss or damages which MPS may suffer as a result of claims, demands, decisions or judgments made against MPS arising out of any use whatsoever of any Product which are based upon or result from:

- Any alteration or modification of the Product by Buyer or Buyer's officers, agents or employees
- The failure of Buyer or Buyer's officers, agents or employees to follow manufacturer's instructions, warnings or recommendations which are communicated by MPS to Buyer in any form before, during or after the time of sale of the Product
- The failure of Buyer or Buyer's officers, agents or employees to comply with federal, state or local laws or regulations applicable to the use of any Product
- The failure of Buyer or Buyer's officers, agents or employees to properly train and instruct anyone using any Product.

14. Modification or cancellation of an order by a customer

Any order which has been confirmed by MPS and accepted by the customer may not be modified or cancelled by the customer without prior formal written approval by MPS. In case of cancellation of an order by the customer, MPS reserves its right to request indemnification for all expenses incurred or work performed by MPS until the cancellation day.

15. Goods subject to export control

15.1. International Export Control Rules apply. The buyer agrees to be familiar with and to comply fully with all applicable goods control laws, national and international export and re-export regulations, sanctions and embargoes, including restrictions in connection with domestic transactions, intermediary services and other circumvention prohibitions that directly or indirectly affect his business (including the resale of our products).

15.2. It is understood by the customer that the Swiss government is entitled to withdraw any export license already granted due to unforeseen circumstances. In the event that the Swiss authorities deny the export license, the purchase order shall be deemed as null and void and under no circumstances the customer shall claim any damages and/or losses due to the non-performance or delayed performance of the contract caused by such decision. Any work

already performed by MPS will be charged accordingly and must be paid by the customer.

15.3. In Accordance with the laws of Switzerland, MPS shall not sell any product related to atomic, biological or chemical weapons. Should MPS become aware of the use of the product in such weapons, the purchase order shall be deemed as null and void and under no circumstances the customer shall claim any damages and/or losses due to the non-performance or delayed performance of the contract caused by such decision. Any work already performed by MPS will be charged accordingly and must be paid by the customer.

16. Specific conditions of sale of the MPS e-shop

16.1. These GTC also apply to the relationship between MPS and its customers when they purchase products via the MPS e-shop.

16.2. The offer is available at the MPS e-shop and defined by MPS. In addition to the offer, MPS also chooses the payment service providers which will be used to pay for the services offered. The list of payment service providers is as follows:

- Credit card: VISA or Mastercard
- Bank transfer
- Invoice for customers specified by MPS

16.3. The MPS e-shop can be used on the current versions of popular web browsers, and on both traditional processing tools (desktop computers, laptops) and mobile devices (smartphones, tablets). For mobile use of the shop, a compatible mobile device is required.

16.4. Users are required to protect their devices and browsers from any unauthorized third-party access. In particular, users are solely responsible for preventing third-party access to their mobile phones, tablets or laptops with regard to purchases made on their mobile devices. MPS does not assume any liability for the content, functionality and use of the MPS e-shop, including liability in the event of malware infection, given that no intentional fault or gross negligence can be established.

16.5. When collecting and processing the data provided by the customer, MPS shall comply with the laws on data protection. Reference is made in this regard to the document entitled "Data Protection and Legal Information", which forms an integral part of these GTC.

16.6. MPS shall only collect and process data which is necessary for use, operation, support and acquisition of products in the MPS e-shop. Where it is necessary for the operation of the MPS e-shop, the data is transmitted to the service provider for the purpose of processing the order.

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17. Governing law and place of performance

All legal relations shall be governed exclusively by Swiss substantive Law, excluding in particular the United Convention on Contracts for the International Sale of Goods (Vienna Convention of 1980). The place of performance and exclusive jurisdiction shall be in Bienne, Switzerland.

MPS Micro Precision Systems AG

These GTC apply to all business units of MPS Micro Precision Systems AG listed below, universally referred to as "MPS":

MPS Micro Precision Systems AG

- Unit MPS Microsystems
- Unit MPS Watch
- Unit MPS Décolletage
- Unit MPS Precimed