

1. SCOPE OF APPLICATION

The following General Terms and Conditions (hereinafter «GTC») govern the contractual relationship between APU AG (hereinafter «APU») and the contractual partners (hereinafter «Customers»), unless otherwise agreed in writing or statutory provisions become compulsory.

All deliveries and services (including services under contracts for work and services) of APU shall be provided exclusively on the basis of the GTC in the version applicable at the time of the order, unless and insofar as no deviating provisions have been agreed with the Customer.

The Customer's terms and conditions of business shall not apply, even if we do not separately object to their validity. Deviating or conflicting conditions of the Customer shall only continue to apply if APU has expressly agreed to their application in writing.

2. GENERAL CONTENT OF THE CONTRACT AND UNLAWFUL INTERFERENCE CLAUSE

The subject matter of the contract concluded with APU as well as its content, services and compensatory measure shall result from the written order confirmation addressed to the Customer. Conflicting confirmations of the Customer shall only apply if they have been accepted in writing by APU. APU can change or cancel the order confirmation as long as no countersignature has been received from the Customer.

3. TIME SPECIFICATIONS

Dates and times shall only be binding if they have been confirmed in writing by APU. Confirmations shall be made on condition that the Customer fulfils their obligations to cooperate in a timely manner. If APU is unable to perform the services transferred for reasons for which it is responsible within the agreed periods, the Customer shall grant APU a reasonable grace period for performance of the contract.

4. TERMS OF PAYMENT

The goods are delivered on account. It must be paid within 30 days of receipt. After 30 days the buyer is in default without reminder and owes interest on arrears of 8% p.a. from this point in time. That does not exclude the enforcement of other damage caused by default.

The retention of payments on the part of the Customer is hereby also excluded in the event that the Customer asserts claims for reduction, guarantee, warranty or damages and/or other counterclaims.

5. DELIVERY, INSPECTION OBLIGATION, PLACE OF PERFORMANCE AND TRANSFER OF RISK

5.1. Delivery

Information on delivery dates and delivery periods is not binding unless they have been agreed in writing. In no case do delays in delivery justify claims for damages or the right to withdraw from the contract.

According to the Swiss Code of Obligations, the goods are collectible debt. The Customer therefore bears the risk of any loss of goods upon delivery or after delivery by the post office. This also applies in the case of partial deliveries.

5.2. Inspection obligation

The Customer is obliged to check delivered or collected goods within a reasonable period for correctness, completeness and immediately for delivery damage and to notify APU in writing of any damage, defects and complaints immediately after discovery, at the latest 7 days after delivery.

5.3. Place of performance

In the absence of a written agreement to the contrary, the place of performance for all services agreed between the parties and for all related contractual and non-contractual claims shall be APU's registered office in Neuhausen am Rheinflall.

5.4. Transfer of risk

Unless otherwise expressly agreed in the contract, the goods are shipped at the Customer's risk, irrespective of the type of shipment and who bears its costs. APU is entitled, but not obliged, to insure deliveries in the name and for the account of the Customer. Any liability of APU for the transport risk is excluded.

5.5. Proof of arrival

Since October 1, 2013, exports of products to countries in the European Community are only exempt from VAT if the export can be substantiated by a «confirmation of arrival». The Customer undertakes to provide the counter-signed receipt sent to it by APU within 14 days of receipt of the goods. If APU does not receive this receipt within the specified period, the Customer agrees to pay the invoice amount plus VAT and to reimburse APU for all costs arising from a late or non-return.

6. RETENTION OF TITLE

The goods remain the property of APU until full payment has been received. In the event of conduct in breach of contract, in particular default in payment, APU shall be entitled to demand the return of the delivered item. In this case the Customer shall be obliged to surrender the goods and all associated costs shall be borne by the Customer.

7. TOOLS

If tools are manufactured for the customer by a third party on our behalf or by us on behalf of the customer, 50% of the manufacturing costs for the tool are to be paid net when the order is placed and 50% after completion of the tool without discount deduction.

In view of our design performance, the tools manufactured are in principle our property, but are used exclusively for orders placed by the customer. Any other usage requires an explicit written agreement between us and the customer. We will carefully store and maintain the tools for repeat orders. We are not liable for damages which occur despite proper handling. After consultation with the customer, the maintenance costs will be charged to the customer.

Our obligation to storage expires, if no further order is received from the customer within two years of the last order. We shall not be obliged to accept follow-up orders and shall not be bound by the prices agreed in the first or a previous order. In the event that the customer does not pay for the goods delivered to him or does not pay for them within the agreed period, we shall be entitled to use the tools as we see fit after expiry of a grace period or if they are dispensable.

If a tool is required for the manufacture of a product, the period agreed upon for the manufacture and delivery shall not commence until the time at which the sample has been approved by the customer or a type sample has been approved for production.

8. WARRANTY AND LIABILITY

8.1. Warranty

The statutory provisions shall apply with regard to warranty, unless and insofar as this does not deviate from them to the extent permitted by law:

Compensation for all consequential damages or other direct and/or indirect damages and losses or lost profits due to defective, omitted or delayed delivery is excluded. This does not limit liability for personal injury or any claims for compensation against the manufacturer under the Product Liability Act.

8.2. Liability

APU is only liable if it has caused damage through intentional or grossly negligent action.

In all other respects, the following provisions shall apply to APU's liability in the event of negligence:

Claims for damages due to consequential damages, positive breach of contract, culpa in contrahendo and tort are excluded. Claims for damages due to impossibility and delay are limited to the amount of the order value.

The above limitations of liability shall apply to the same extent to APU's vicarious agents and agents.

In commercial transactions APU shall only be liable for damages caused by intentional or grossly negligent action.

The above limitations of liability shall not apply in the event of culpable breaches of essential contractual obligations, insofar as the achievement of the purpose of the contract is endangered, in the absence of warranted characteristics or in cases of mandatory liability under the Product Liability Act.

APU is not obliged to archive the Customer's working documents, unless otherwise agreed in writing.

9. APPLICABLE LAW AND JURISDICTION

All contractual and legal relationships between APU and the customer are subject to Swiss law exclusively, both formally and substantively. In the event of disputes, only substantive Swiss law shall apply to the exclusion of conflict of legal provisions. The UN Sales Convention (CISG, Vienna Sales Convention) is explicitly excluded.

The place of jurisdiction for all future disputes which are directly or indirectly connected with the contract between APU and the Customer, in particular for all future disputes concerning the content of the order, the conclusion of the contract and its implementation, shall be the registered office of APU in Neuhausen am Rheinflall. In the event of a dispute, however, APU may also appeal to another court having jurisdiction for the Customer.

10. DATA PROTECTION

Customer data are electronically recorded and processed by APU. Personal data disclosed in the course of the business relationship will be treated confidentially. APU uses the data for the processing of orders, the delivery of goods and the rendering of services as well as for communication with the owner of the recorded data about orders, products and services rendered or to be rendered. The data will only be passed on to third parties to the necessary extent if it is necessary for the provision of technical, logistical or other services in case of clear Customer interest. The Customer acknowledges and expressly consents to this.

Personal data will be deleted from the APU customer file at the request of the Customer. The Customer may view its stored contract data at any time upon request.

11. MISCELLANEOUS

Should individual provisions of these General Terms and Conditions of Business be wholly or partially invalid, this shall not affect the validity of the remainder of the contract. In this case, the parties shall endeavour to find a provision that comes as close as possible to the economic intent of the invalid provision.

APU is entitled to subcontract all or part of its obligations.

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APU AG
Rheinweg 7
CH - 8200 Schaffhausen