

This translation of the German "AGB" (General Terms and Conditions) only serves informational purposes. Please be advised that only the original German document is legally valid if it differs in one or more points from the English translation.

## 1 Scope of the General Terms and Conditions

- 1.1 These General Terms and Conditions are an integral part of any and all offers and agreements between the customer and Auverna T. Guldemann AG (hereinafter called "the supplier").
- 1.2 These General Terms and Conditions are subject to Swiss law and shall apply world-wide provided the parties have accepted them explicitly or implicitly. Any ancillary agreements or modifications to this document shall only be valid if Auverna T. Guldemann has confirmed such agreements or modifications in writing.
- 1.3 These General Terms and Conditions shall be valid for an indefinite period unless changed by written mutual consent.
- 1.4 In addition the statutory provisions of the Swiss Code of Obligations regarding purchase contracts (Art. 184 ff. OR) as well as the other Swiss laws and regulations shall apply.
- 1.5 In the event that a provision of this agreement proves to be or become invalid in part or in whole or that the agreement contains a gap, the remaining provisions shall remain unaffected. In lieu of such invalid provision a term that is valid and enforceable and that comes closest to expressing the economic intention of the parties involved shall be deemed to have been agreed. This shall also apply to a gap in these General Terms and Conditions.

## 2 Offers

- 2.1 Information provided by phone shall only be valid in the event that the appointment has explicitly been made to discuss an offer.
- 2.2 Offers made in writing, by telephone, in a face-to-face meeting, by fax or by email shall be binding. If the customer requests additional services at a later date, these may be invoiced.
- 2.3 The offer shall remain valid only as long as the raw material prices on which the offer is based remain unchanged and the supplier can procure the material at the originally calculated price.
- 2.4 Offers for which an acceptance period has not been set shall not be binding.
- 2.5 Price lists and brochures contain merely non-binding information and indicative prices.

## 3 Contractual Performance

- 3.1 The order confirmation shall determine the scope and execution of the work ordered. The supplier shall supply the products according to the specifications stated in the order confirmation.
- 3.2 Unless explicitly agreed otherwise, benefits and risks shall be transferred from the supplier to the customer upon dispatch of the goods.
- 3.3 The customer's purchasing conditions shall only be valid if they have explicitly been accepted on the supplier's order confirmation.
- 3.4 Unless a special acceptance procedure has been agreed, the customer shall inspect the products by himself and notify the supplier of any defects in writing. If the customer fails to provide notice within a ten day period after delivery the products shall be deemed free of defects and the delivery accepted. The customer shall then be obligated to make the payment as agreed. This does not apply to latent defects.
- 3.5 If delivery is to be by call-order by customer, the last partial delivery shall be called by the end of 12 months after the order date. If the customer fails to do so it shall be invoiced for 10% of the product value. By the end of 18 (eighteen) months after the order date at the latest all quantities ordered but not yet delivered shall be delivered to the customer and invoiced.
- 3.6 Subsequent orders and supplemental orders at a later point in time can only be executed at the same prices as agreed in the original order under the provision that the costs of materials and manufacturing have remained unchanged and that the volume is the same or larger.

## 4 Delivery Times and Delivered Quantity

- 4.1 The period of delivery shall start upon conclusion of the contract, clarification of all of the manufacturing requirements and written order confirmation, whichever occurs last.
- 4.2 We aim to meet the agreed delivery deadlines at all times. However, in the event of a delay the customer shall not have the right to cancel the order or claim damages.
- 4.3 The delivery deadline shall be extended reasonably
  - If the customer requests changes after the start of the delivery period.
  - If obstacles arise which the supplier cannot avert despite exercising the necessary care, regardless of whether they affect the supplier, the customer or a third party involved. Such impediments may include, but are not limited to, epidemics, a call to arms, war, upheaval, considerable business disruptions, accidents, labor conflicts, delayed supply of the required raw materials, semi-finished or finished products or supply of such in defective condition, acts or omissions by public authorities, or natural disasters.
  - If there is a delay in the customer's performance of his contractual duties, especially a failure to meet payment obligations.
- 4.4 Differences between the number of pieces manufactured by us and number of pieces ordered can usually not be avoided. The quantity ordered shall be delivered with the variation of plus/minus 10% as is customary in the trade.

## 5 Prices and Terms of Payment

- 5.1 If not specified otherwise, our prices are subject to 8.00% Swiss VAT and do not include packaging and shipping.
- 5.2 The customer shall make the agreed payment net without deductions within the period of payment agreed in the order confirmation.
- 5.3 If the payment terms are not met, the supplier shall be entitled to, with cumulative effect:
  - charge default interest of 5%
  - charge a reminder fee of CHF 100.00
  - request securities for all outstanding claims
  - effect performance of outstanding deliveries only if paid in advance
  - claim damages

## **6 Retention of Title**

- 6.1 All goods delivered by the supplier shall remain its property until it has received full payment for them as agreed.
- 6.2 During this time the customer shall maintain the delivered products in good condition at its own expenses and take all necessary measures to ensure that the supplier's title is neither impaired nor lost.

## **7 Packaging, Shipping and Transport**

- 7.1 Packaging materials shall be invoiced at cost price.
- 7.2 The packaging materials constitute a separate item on the invoice and cannot be returned. If, however, they are labeled as the supplier's property, they shall be returned to their original place at the customer's cost.
- 7.3 The supplier shall be notified in good time of special requests regarding shipping, transport and insurance matters. Transport is carried out for the account and at the risk of the customer. The goods shall be packaged with the utmost care.
- 7.4 In the event of damage incurred during transport the transport company shall be promptly notified by the customer. The customer shall also advise the supplier of such event.
- 7.5 This also applies if the packaging of the goods shows no obvious damage on the outside.
- 7.6 The customer shall be responsible to insure the goods against damage of any kind.

## **8 Inspection and Delivery**

- 8.1 The supplier shall to the extent that it is customary, inspect the goods and performance before shipping. Should the customer request inspections beyond the aforementioned, such shall be agreed separately and paid by the customer.
- 8.2 The delivery shall be deemed performed on the date on which the goods leave the supplier's premises, or in the event of direct shipping by our sub-suppliers, their premises, respectively.

## **9 Warranty, Liability for Defects**

- 9.1 The supplier guarantees proper execution of the order according to the drawings and specifications.
- 9.2 Supplier shall be notified in writing and in detail of any defects within 10 (ten) days after receipt of the delivery at the destination. Notices of defects shall be accompanied by samples. If the customer fails to do so, performance and delivery shall be deemed approved. Defective parts shall be returned to the supplier in the same condition in which they were received and in the original packaging, if possible. In the event of a justified complaint the supplier shall either replace defective parts or issue a credit note.
- 9.3 Faults or defects in the material, design or workmanship or the failure to fulfil any express warranties shall not entitle the customer to any claims.

## **10 Transfer of Benefits and Risks**

- 10.1 Unless explicitly agreed otherwise, benefits and risks shall be transferred from the supplier to the customer upon dispatch of the goods ex works.
- 10.2 If the delivery is delayed upon the customer's request or due to other reasons for which the supplier cannot be held responsible the risk is transferred to the customer on the originally scheduled date of delivery ex works.

## **11 Place of Performance and Jurisdiction**

- 11.1 Place of performance and jurisdiction shall be Horriwil, Switzerland.
- 11.2 The legal relationship shall be governed by Swiss substantive law.

**We always seek to amicably settle any disputes with our customers if any arise.**