

General Terms and Conditions of Aptifab AG

1. Priority of the General Terms and Conditions

1.1 These terms and conditions are binding for deliveries and services carried out by Aptifab AG, also in such cases where they are tacitly recognised by the parties. Different terms and conditions of the customer shall only be applicable with the explicit and written confirmation of Aptifab AG.

2. Conclusion of a Contract

2.1 All contracts require the written confirmation of Aptifab AG. This requisite can only be renounced in writing.

3. Delivery Deadlines

3.1 Delivery deadlines shall be given in an order confirmation to the best of one's knowledge and conscience as well as being as exact as possible. Only deadlines confirmed in writing are binding.

3.2 Delays not caused by Aptifab AG, however to the customer's detriment, through acts of God like natural disasters, mobilisation, war, strikes, riots, epidemics, accidents and illnesses, substantial company breakdown, delayed or faulty deliveries as well as measures undertaken by an authority, shall be made known to the customer and shall free Aptifab AG from fulfilment of its agreed contractual obligations for the duration of the incident. In the event of such an occurrence, should Aptifab AG be unable to carry out its agreed contractual obligation, Aptifab AG shall have the right to withdraw from the contract.

3.3 Where there is a delay in delivery by Aptifab AG, the customer can withdraw from the contract, provided he sets an appropriate extended deadline and specifies in writing that he will reject the delivery or services rendered if the goods are not notified as ready for delivery by the end of the extended deadline. The extended deadline begins on the date when Aptifab AG receives the written extended deadline set by the customer.

3.4 Aptifab AG only incurs liability in as far as the delay can be proved to be on the part of Aptifab AG and the customer can provide evidence of damage caused as a result of the delay or non fulfilment of the contractual obligations. **The indemnity in any case shall amount to no more than 10 percent of the delayed or non-delivered of part of the delivery or services rendered.**

3.5 The customer has no further claims on top of those explicitly mentioned in section 3. These limitations are not binding for illicit intentions or gross negligence on the part of Aptifab AG.

4. Payment, Customer Delay, Settlement

4.1 If not otherwise agreed, payments are due without deduction within 30 days from the date of the bill.

4.2 Where the customer fails to meet the agreed payment deadline according to paragraph 4.1, Aptifab AG shall be entitled to charge a levy of 6 percent after having issued one previous reminder. In any case the goods remain the property of Aptifab AG until full and complete payment.

4.3 If the solvency of the customer substantially declines after the conclusion of the contract (e.g. if bankruptcy or insolvency proceedings are initiated), Aptifab AG is not required to render its services until the customer makes payment or provides other appropriate securities for the claim.

5. Risk of Loss

Unless otherwise stipulated, Aptifab AG shall fulfil its obligations at its place of business.

6. Notice of Defects, Guarantee and Rectification of Defects

6.1 Defects are to be notified in writing within two weeks after the delivery – hidden defects within two weeks after their discovery.

6.2 If the customer or a third party rectify defects on their own accord, any liability and burden of guarantee on the part of Aptifab AG is void.

6.3 Aptifab AG has the right to rectify defects or to replace disputed goods. Should the rectification or the replacement be faulty for the second time, the customer can withdraw from the contract or demand an appropriate reduction of the sales price. Such is also the case if Aptifab AG is incapable to rectify the defects or to replace the goods.

6.4 Only in urgent cases of imperilment to the operational security and to guard against disproportionately large damage, the customer

has the right, where there is a danger of degeneration of the defect, to remove the defect or to have it removed by a third party and claim the thereby necessary costs from Aptifab AG. In such cases, the customer is also obliged to immediately instruct Aptifab AG about the defect in writing.

6.5 The guarantee obligation is effective also for hidden defects during twelve months after delivery. With rectification of defects and replacement deliveries a new guarantee period of six months comes into effect. Where there is rectification of defects and replacement deliveries, the original guarantee period can be extended to 24 months at the most.

6.6 Where there are defects in the delivered goods, the customer has no rights and claims other than those explicitly mentioned in section 6 (c.f. also section 7).

6.7 Aptifab AG fundamentally ensures only the specified and mutually agreed properties of the delivered products.

7. Disclaimer of further Liability of the Vendor

7.1 Aptifab AG is entirely liable where there is damage resulting from an illicit intention or gross negligence by an employee in a leading position. Otherwise Aptifab AG is only liable in as far as explicitly outlined in these terms and conditions.

7.2 In no case, the customer has the right to claim compensation for damage that is not self inflicted on the item for delivery, namely loss of production, loss of effectiveness, loss of order intake, loss of profit, as well as other direct or indirect damage, except where such damage arises from a mistake in a written guarantee of quality and where the guarantee of quality is directly aimed at protecting the customer from such damage. This disclaimer is also binding for claims involving default in performance of contract, default in the conclusion of a contract, and illegal dealings.

7.3 The disclaimer in subsection 7.2 is not binding in cases of illicit intention or gross negligence on the part of Aptifab AG or an employee in a leading position. However, it is binding in cases of illicit intention or gross negligence perpetrated by the remaining employees. In other cases the disclaimer is not binding if there is enforceable law to the contrary.

8. Confidentiality

8.1 Both contractual parties shall not disclose business related information of each other to a third party, be it arising from the usual course of business nor commonly known. Moreover, both parties shall fully endeavour to hinder third parties from accessing such information. Conversely, both contractual parties shall be permitted to continue using know-how ensuing from the course of business so long as it is not protected by patent law. Both contractual parties are obliged to make the terms of confidentiality binding on their employees.

8.2 All of the design data worked on and put to the customer's disposal by Aptifab AG shall not be used nor made accessible to a third party unless agreed to by Aptifab AG explicitly in writing.

8.3 The entire intellectual property rights like copyrights, patent rights, trademarks, mask rights etc. shall remain the property of Innodul AG even in case of the submission or accessibility of design data to third parties.

9. Export

9.1 The exported goods can be subject to Swiss, European and American export controls and embargo regulations. The customer bears the responsibility to conform to the corresponding national and international export regulations. He must ensure that all obligations regarding any re-export restrictions are consigned to the respective recipients.

10. Applicable Law and Court of Jurisdiction

10.1 Swiss law is valid exclusively, subject to the regulations stipulated in conventions of the United Nations concerning contracts in the international sale of goods.

10.2 In case of discrepancies between translations of these terms and conditions, the German version is binding.

10.3 The court of jurisdiction for the entirety of disputes arising from this contract is Zurich (Switzerland).