

# General Terms and Conditions of UT99 AG

(Status October 2018)

## 1. General Information

1.1 These General Terms and Conditions (hereinafter referred to as "GTC") apply for orders of goods from the product range of UT99 AG and for all services, offers, deliveries and other performances of UT99 AG applicable at the time of the order.

1.2 The customer's contract partner is UT99 AG, Schaubenstrasse 5, 8450 Andelfingen, Switzerland, Tel. +41 52 397 11 99, email: sales@ut99.ch (hereinafter referred to as "UT99").

1.3 These GTC form an integrated component of the contract concluded between UT99 and the customer. Any provisions conflicting with the GTC are legally valid only when accepted by UT99 explicitly and in writing. UT99 does not accept general terms and conditions of the customer or from partner companies.

## 2. Ordering process, offer preparation and conclusion of contract

2.1 The offers in catalogues or on the UT99 website are not binding offers. Contracts for orders received in person, by telephone, by email, post or fax do not come into force until accepted by UT99, i.e. order confirmation sent by email, post or fax to the customer, or at least at the shipment of the ordered goods or the dispatch of the collection notice.

2.2 If the ordered goods are not available UT99 reserves the right not to accept the offer of the customer such that no contract comes into force. The customer is informed about this via email, fax or by post. In this case any payments already made for the ordered goods shall be refunded to the customer.

2.3 If it emerges after conclusion of the contract, that the ordered goods cannot be delivered in part or in whole due to force majeure or other reason for which UT99 is not to blame, UT99 is entitled to withdraw either partly or wholly from the contract. The customer is informed about this via email, fax or by post. Any payments already made for the corresponding goods shall either be refunded to the customer in full (in the case of complete withdrawal) or in relation to the undeliverable goods (in case of partial withdrawal). The customer cannot assert further claims.

2.4 The written offers of UT99 for the planning, development or production of oil mist separators or related parts and/or for the design and development of software and for the production of development, project planning, installation, assembly, consultation, maintenance, after sales or other services are not binding for UT99 until confirmed in writing. UT99 reserves the right to adjust prices, including offer prices confirmed in writing if price increases, additional levies, interest rises or currency fluctuations during the execution of the order alter the bases of the calculation.

2.5 Information, descriptions of services, photos, media data, product details, product photos, technical specifications, accessory references etc. which appear on the UT99 website are not guaranteed. UT99 also accepts no liability for the content of external websites and links to partners.

2.6 All product and project descriptions, operation and operating instructions, pictures, photo, text and media data, schematics, system, schemata, prototypes, models and designs originate, unless explicitly otherwise identified, from UT99 and are subject to sole usage right of UT99. With all related intellectual property rights, in all cases the intellectual property remains with the UT99. The customer may neither use, copy, reproduce nor pass them onto third parties without written consent from UT99. If no contract is concluded, the customer shall return these documents in full to UT99.

## 3. Regulations in the destination country and safety equipment

3.1 The customer shall alert UT99, before or with the order, of technical prerequisites and to the statutory, official and other regulations at the destination insofar as this is relevant for the delivery of the product.

3.2 In the absence of instructions according to article 3.1 of these GTC the deliveries and services correspond to the regulations and standards at the registered office of UT99. Additional or other safety equipment is supplied only where explicitly agreed.

## 4. Delivery

4.1 If the customer decides to have the goods sent, s/he shall be notified by email, fax or post when the goods are ready for dispatch. UT99 reserves the right to select the freight forwarder if no shipping agreement has been reached with the customer. In case of deliveries abroad there may be duty, taxes and fees which are not included in the overall indicated price. The risk transfers to the customer with the handover to the freight forwarder (in the case of FCA, Incoterms 2010) and/or with the handover at the place of fulfillment (in the case of DAP, Incoterms 2010).

4.2 With the conclusion of the order the customer may optionally close a transport insurance for damage or loss in transit. This covers actual damage sustained in transit up to the maximal amount of the value of the goods at the time of the order. For the purpose of settlement of the rights against the freight forwarder and/or the insurance the customer shall check the goods on acceptance of the shipment for integrity and completeness. The customer must make a precise, detailed reservation with the freight forwarder in the case of externally visible transit damage or quantity differences. Externally invisible transit damage or quantity differences shall be reported or at least within five days to UT99's customer service (phone: +41 52 397 11 99 or email: sales@ut99.ch). In the case of complaints, all parts of the original packaging must be retained. In case of unreserved acceptance (in the case of externally visible transit damage or quantity differences) or after the five day period (in the case of externally invisible transit damage or quantity differences) the risk against the freight forwarder and/or the insurer is lost.

4.3 The customer is obliged to accept the shipment. If a shipment is undeliverable and the goods are returned to the freight forwarder by UT99, UT99 reserves the right, without setting a grace period, to waive retrospective fulfillment of the customer's obligations with regard to the unaccepted goods. UT99 is also entitled to demand compensation for non-fulfillment of the contract and to invoice additional expenses and processing and/or warehouse costs.

4.4 If the customer decides to collect the goods from the premises of UT99, s/he shall be notified by email, fax or post about when the order is ready for collection. The risk transfers to the customer with the handover to the freight forwarder (in the case of FCA, Incoterms 2010) and/or with the handover at the place of fulfillment (in the case of DAP, Incoterms 2010). For collection, the customer must present the collection notification and an officially-issued photo identification (identity card, driver's licence, passport, etc.). The customer is obliged to collect the order from UT99 within 10 days from receipt of the collection notification. If the customer does not collect the order within this deadline, UT99 reserves the right to waive retrospective fulfillment of the customer's obligations with regard to the uncollected goods without any grace period. UT99 is also entitled to demand compensation for non-fulfillment of the contract and to invoice additional expenses and processing and/or warehouse costs.

4.5 If the product cannot be delivered within the period agreed with UT99 due to circumstances outside the control of the parties which qualify as force majeure e.g. war, work dispute, uprising, natural events, fire, official sequestration, embargo etc, either on the part of the customer, UT99 or a supplier facility, the delivery period shall be extended for the duration of the delay. Any compensation obligation on the part of UT99 for direct or indirect damage of the customer is excluded.

4.6 Any delay in the delivery or failure to deliver which is not caused by the customer and does not fall under article 4.5 entitles the customer to withdraw from the contract, provided the customer has set UT99 a period of grace of at least 30 days in writing and this has expired without success. Liability of UT99 for direct or indirect damage of the customer due to delayed delivery is excluded provided it is legally permissible.

## 5. Price and payment

5.1 All prices on the website or in UT99 catalogues are given in Swiss Francs (CHF) or Euros (EUR). They are non-binding (subject to revision) and excl. the statutory VAT but incl. recycling levy and copyright fees where applicable. Dispatch, packaging, assembly and any further secondary costs (e.g. supplements for selected payment methods) are separately stated and invoiced to the customer. Any adjustment to accommodate to local or the customer's house rules is charged for separately. The prices for development, project planning, installation, assembly, consultation, maintenance, after sales or other services provided by UT99 are net, exclusive statutory VAT. Orders with prices from the website or catalogue only become binding with confirmation of the order by UT99 according to article 2.1.

5.2 The payment methods indicated during the order process are available to the customer. UT99 reserves the right to exclude customers from individual payment methods or to insist on cash in advance without stating the reason. In the case of purchase by invoice the total amount shall be transferred to the stated account within the payment period stated on the invoice. In the case of cash in advance the invoice must be settled within 10 days. UT99 may otherwise annul the order. Down payment or instalments may be agreed with the customer for development, project planning, installation, assembly, consultation, maintenance, after sales or other services to be provided by UT99 or for the payment of ordered goods or goods to be developed.

5.3 With initial delivery and/or unsuccessful attempt to deliver the goods, initial collection and/or with the expiry of the ten day collection period (see article 4.4) or with the expiry of the payment periods in the case of payment by invoice (see article 5.2) and/or with the expiry of the agreed payment periods the customer is deemed to be in arrears without reminder. UT99 is authorized to suspend all further deliveries or services in whole or in part, until all debts are paid. UT99 also reserves the right, after expiry of a period of grace of at least 10 days, to waive the subsequent fulfillment of the obligations of the customer in whole or in part, to fully or partially reclaim any goods already delivered and to demand compensation for non-fulfillment of the contract and to charge additional expenses, processing and/or warehouse costs.

## 6. Retention of title

6.1 The goods remain the property of UT99 until full payment of all debts from or related to the purchase or the project stated in the order. With the conclusion of contract the customer authorizes UT99 to make a corresponding entry at the cost of the customer in the reservation of the title register according to article 4 of the provision of the Swiss Federal Court regarding the entry of the title reservations (SR 211.413.1).

6.2 Until transfer of the property the object of the delivery may be neither pledged, sold on or moved to other locations without the consent of UT99.

6.3 In the case of a change of domicile on the part of the customer, s/he is obliged to notify UT99 immediately.

6.4 The customer is obliged to handle the delivery item and/or the product with all due care and to undertake all standard maintenance as well as maintenance specified by UT99 and/or by the manufacturer.

6.5 Before taking possession of the delivery item and/or the product, the customer is obliged to reasonably insure the purchase object till full payment with an accredited insurer against fire, natural hazards, mechanical breakdown etc.

## 7. Warranty and liability

7.1 Provided the customer meets the stipulated checking and complaint obligations, UT99 shall provide 12 months warranty for the functions, contractual services and characteristics of the products if UT99 has planned, developed and commissioned the products. The warranty period starts with departure of the deliveries ex. works or with any agreed acceptance of the deliveries and services or, if UT99 has also undertaken the assembly, on its completion. If dispatch or assembly are delayed for reasons beyond UT99's responsibility, then the guarantee period shall end at the latest 18 months after notification of readiness for dispatch.

7.2 Excluded from the warranty are normal wear and tear and consequences of misuse on the part of the customer or third parties and defects which are caused by external circumstances. Warranty claims exist in any case only when the products developed by UT99 have been installed and operated in accordance with UT99 specifications, no external manipulation has taken place and due maintenance was carried out. Any UT99 warranty is furthermore cancelled in the event of non-fulfillment of the terms of payment. Also excluded from the warranty are consumable and wearing parts (e.g. batteries etc.).

7.3 In the case of used parts the warranty is excluded as far as legally permissible.

7.4 The warranty obligation or liability of UT99 is excluded in the case of defects caused by materials supplied by the customer or customer-specified construction.

7.5 UT99 is liable for parts which it has delivered and the customer has installed only if defects were not discoverable during a normal check and the sold products were used correctly. The assembly and installation instructions must also be observed. The products must not be overloaded, overstressed or disassembled. No unsuitable non-original parts may be used. The installation must be executed according to the state of the art.

7.6 If the product malfunctions during the warranty period and if the customer reports the defect correctly and promptly, apart from the cases referred to in article 7.2 and with article 7.5, UT99 will remedy the defect, free of charge provided UT99 was made aware of the malfunction during normal working hours. Any other claims of the customer are excluded. Before the transfer of storage media to UT99 the customer must produce backup copies of data on computers, hard discs or other storage media to prevent loss or corruption (e.g. during repair). Any liability of UT99 for data loss and data corruption is excluded.

7.7 All data (product descriptions, illustrations, slides, volumes, weights, technical specifications, accessory references and other data) on the UT99 website or in catalogues is subject to reservation of errors and does not represent any assurance of characteristics.

7.8 The assignment of warranty claims is excluded.

## 8. Liability

UT99 excludes in full any and all liability, irrespective of the liability basis, as well as compensation claims against UT99 and any assistants or vicarious agents as far as is legally permissible. UT99 accepts no liability for items or development, project planning, installation, assembly, consultation, maintenance, after sales or other services delivered by third party or partner firms of UT99.

## 9. Sample parts

Any sample material required for the design, customization and commissioning of the object of the delivery or of the product as well as applicable standards must be made available to UT99 free of charge and freight free. If this material is no longer required, return transport to the customer is at its own cost.

## 10. Software licence

Inasmuch as software is included in the order, UT99 shall grant the customer a non-exclusive, non-transferable and project-specific right to use the delivered software including its documentation. This licence applies exclusively for the personal use of the customer in conjunction with the delivered product and at the designated location. Use of the software for products other than those supplied by UT99 is prohibited. Copies may be produced only for archiving and backup purposes. The customer may not disassemble, decompile, decode, reverse engineer or otherwise process the software without prior written consent from UT99. In the event of a violation UT99 may revoke the right of use. The use of the software is regulated in a special licensing agreement between the customer and UT99.

## 11. Concluding provisions

11.1 If any clause in these GTC is or becomes invalid, unlawful or unenforceable, this shall not affect the validity of the other clauses.

11.2 Substantive Swiss law excluding the conflict of laws and international law, in particular the UN Sales Convention, is exclusively applicable.

11.3 As far as legally permissible, the venue for any disputes arising out of or relating to these GTCs or otherwise arising out of the relationship between the customer and UT99, irrespective of their legal nature, is the registered office of UT99. UT99 also has the right to assert claims alternatively at the customer domicile or before any other authorized court.

11.4 The German version of these GTC takes priority in the event of a conflict with the version in another language.