

1. Applicability of Terms

- 1.1 These General Terms and Conditions shall be applicable for all present - and future – contracts, offers, deliveries and other services. We herewith object to any and all terms of our customers also in cases in which they are communicated to us by letter of confirmation or any other way.
 - 1.2 Deviations from, oral collateral agreements or warranties, amendments or exclusion of these terms become effective only, if confirmed by us in writing. The same shall apply to any agreement setting aside the written-form requirement.
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2. Offers and Conclusion of Contract

- 2.1 Our offers are subject to change and non-binding. Any and all orders are considered accepted only after written order confirmation, at the latest after delivery of the merchandise.
 - 2.2 Drawings, illustrations, measures, weights or performance date (specifications) are binding only, if they have been agreed upon in writing and have expressly been termed as binding.
 - 2.3 For all documentations, drawings, leaflets and other references we retain ownership- and copyrights. They must not be disclosed to third parties. Samples are given only against invoice with obligation to return within 4 weeks. Reimbursement of returned samples is subject to their condition. Errors, printing errors, miscalculations, spelling mistakes and computing errors are non-binding and do not constitute any claim for compliance or indemnity.
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3. Prices

- 3.1 Invoicing is in EURO and is ex works Raunheim plus freight and packaging as well as statutory VAT. We reserve the right to change prices if the period between conclusion of the contract and the agreed date of delivery is longer than 3 months and if during this period the parameters on which prices had been calculated, have changed.
 - 3.2 Minimum order value per order is EUR 100.00.
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4. Payment, Set-Offs, Retention

- 4.1 Invoices are payable, if no other agreements have been made, within 10 days from date of invoice net without deductions. Timeliness of payment depends on the time of receipt of payment here or the unconditional credit to our account.
- 4.2 Late payments are subject to late payment interest at 8 percentage points above the then valid base rate. We reserve the right to assert higher damages as well as further legal actions. In case of our withdrawal we are owed an option amount of 10 % of the net purchase value, unless the customer proves that no damage due to default has occurred or that it is essentially lower.
- 4.3 We have no obligation to accept payment by cheque or bills of exchange; in any case the presentation of cheques or bills of exchange is only on account of performance. Presentation of cheques or bills of exchange does not lead to deferment of our claim for payment. Costs in relation to the recovery of cheques or bills of exchange are the responsibility of the customer.
If payment is effected by payment instruments which the customer has obtained by discounting a drawee's bill of exchange, our purchase price claim is met only once the bill of exchange has been honoured.
- 4.4 Whenever several accounts receivable are outstanding against a customer and a payment by this customer is not sufficient to cover all outstanding amounts, clearance takes place according to the provisions of law (listed in Section 366 Para 2 BGB, (German Civil Code)), even if the customer has expressly made his payment against a certain claim.
- 4.5 The customer is entitled to possible legal rights to set-off claims only in cases of undisputed and legally binding or due claims. The customer is entitled to possible legal rights to retention or denial of payment, e.g. due to deficits of the delivered merchandise, only when such undisputed and legally binding or due claims originate from the same contractual relationship with us.
- 4.6 Should it become evident, that our claim for payment is endangered due to defaulting performance of the customer, we are entitled to call in the entire remaining debt, even if we have accepted cheques. In this case we are furthermore entitled to ask for pre-payments or for securities and to deny further deliveries of merchandise on order. We reserve the right to further rights under law.

5. Delivery, Performance, Risk Transfer

- 5.1 The dates and deadlines acknowledged by us are non-binding unless otherwise agreed upon expressly in writing. If, therefore, in an exceptional case a date is binding, the delivery period begins on the day, that agreement on all essential questions pertaining to the order between us and the customer has been concluded in writing. It is understood, that compliance with the delivery period requires timely receipt of any and all documents to be provided by the customer as well as compliance with the agreed terms of payment and other obligations – also for previous transactions.
 - 5.2 Our contractual obligations are subject to our correct and timely receipt of deliveries.
 - 5.3 If not otherwise agreed upon in writing, deliveries are ex works or ex warehouse; we ship merchandise at the customer's risk and cost, whereby we are entitled to ship merchandise to the customer from a location other than the place of delivery mentioned in Item 9.1. If dispatch of goods is delayed without fault of our own, the risk transfers to the customer with the notification that goods are ready to ship. When customer collects goods the risk transfers with the handing-over of those goods.
 - 5.4 It is our choice to select the route of transport and means of transport, unless otherwise agreed upon in writing. Securing claims in transport damages is the responsibility of the customer.
 - 5.5 The customer is obliged to accept partial deliveries and services unless in individual cases this is unacceptable.
 - 5.6 Events of force majeure and situations for which we are not responsible, which momentarily render our performance impossible or which otherwise impair our performance, as strikes, lock-outs, mobilisation, war, warlike situations, embargoes, import and export bans, traffic blockages, official measures, energy and raw materials shortages, breakage of machines and tools and others, entitle us, also within the defaulted performance, to delay performance by the duration of the impairment. If execution of the contract becomes unacceptable to us by events of force majeure or by other situations for which we are not responsible, we are entitled to rescind the contract in part or in whole. The right to delay performances or to rescission is independent from whether the situations mentioned in sentences 1 and 2 occur here or with our suppliers. Exercise of this right does not justify claims for damages by the customer. Legal provisions on the exclusion of performance obligations and impediments to performance remain unaffected.
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6. Retention of Title

- 6.1 All goods supplied by us (in the following called “retention goods”) remain our property until any and all developing claims, also future claims, against the customer and pertaining to this business relationship, are complied with. With current accounts the retention of title serves as collateral for any of our balance claims.
- 6.2 Processing or transformation of the retention goods happens for us as manufacturers according to the terms of Section 950 BGB (German Civil Code), without creating any liabilities for us. When processing or transforming the retention goods with other goods, not supplied by us, we will have co-ownership in the new objects at the ratio of the final invoice value of the retention goods to the purchase price of the other processed or altered objects at the time of processing or transformation.

In the event that retention goods are being connected, mixed or blended with movable goods of the customer in such a way, that the goods of the customer are considered the main objects, the customer transfers to us already now his ownership of the entire object in the ratio of the value of the retention goods to the value of the other connected, mixed or blended objects. In the event, that retention goods are connected, mixed or blended with movable goods of a third party in such a way, that the goods of the third party are considered the main object, the customer transfers to us already now the claim for remuneration due to him by the third party to the amount corresponding to the final invoice value of the retention goods.

The objects (in the following called “new objects”) which are generated through processing, transformation, connection or mixing and the (co-) ownership rights in the new objects to which we are entitled and which are transferred to us according to Item 6.2, as well as the remuneration claims transferred to us, serve in the same way as securities against our claims, as the retention goods themselves according to Item 6.1.
- 6.3 The customer is entitled to sell the new objects in the ordinary course of business subject to retention of ownership. The customer is obliged to ensure, that claims from such re-sales can be transferred to us in observation of Items 6.4 and 6.5.
- 6.4 Payment claims by the customer from a resale of the retention goods are already now assigned to us. They serve as our security in the same way as the retention goods. If the customer sells the retention goods together with other goods not supplied by us, assignment of the payment claim shall only be applicable to the amount resulting from the sale of the retention goods. If the customer sells goods to which we are co-owners, according to Item 6.2 or the legal provisions pertaining to the connection, mixing or blending of objects, assignment of the payment claim shall be applicable for the amount of our co-ownership share.

- 6.5 If the customer accepts payment claims pertaining to the resale of retention goods into an open account relation with his purchasers, he already now assigns to us the resulting credit balance or final balance to the amount corresponding to the claims pertaining to the re-sale of the retention goods accepted into the open account. Item 6.4, sentences 3 and 4 apply mutatis mutandi.
- 6.6 The customer is entitled to collect the payment claims from the re-sale of retention goods or new objects which he has assigned to us. Assignment of claims from re-sale to third parties is not permitted, even within the framework of genuine factoring contracts.
- 6.7 We are entitled to revoke the authorisation to re-sell the retention goods or the new objects according to Item 6.3 and the authorisation to collect the payment claims transferred to us according to Item 6.6 in the event of delayed payment or cessation of payment, as well as in the event of a insolvency processing or other situations compromising the credit worthiness or trustworthiness of the customer. In the event of revocation of the authorisations to re-sell or collect payment claims, the customer is obliged to inform his purchasers without delay of the assignment of payment claims to us. He will furthermore hand over all information and documentation necessary for their collection. Additionally he is obliged in this case to yield to us or transfer to us possible securities pertaining to payment claims against his purchasers and to which he is entitled.
- 6.8 The customer is obliged to inform us without delay of a seizure or of otherwise legal or factual adverse effects or exposures of the retention goods or to our existing securities.
- 6.9 The customer undertakes to treat the retention goods carefully. As far as maintenance or inspections are necessary, the customer undertakes to carry those out on a timely basis and at his own cost. The customer undertakes to take out sufficient insurance for the retention goods, covering fire- and water damage as well as theft. He already now assigns his claims from insurance policies to us.
- 6.10 In the event of delayed payment or any other conduct contrary to the contract on the side of the customer that is to be considered not just insignificant, as well as in the event of rescission of the contract, the customer already now agrees, that we will remove or arrange to remove the retention goods and - as far as we are sole owner - the new objects according to Item 6.2 Removal of the goods does not mean rescission of the contract unless we declare this expressly.
- In order to execute these measures as well as for general inspection of the retention goods and new objects the customer has to grant access to our authorised representative at any time.
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7. Warranty

- 7.1 All goods supplied by us are inspected and/or tested and therefore we assume that these goods are free of defects, both pertaining to materials as well as workmanship, as long as they are treated in compliance with their intended usage. We reserve the right to repair or replace all goods subject to this warranty, provided that:
- Material defects which are noticed through inspection after delivery of goods are notified in writing immediately, at the latest within one week after delivery of goods, other material faults are notified in writing immediately, at the latest one week after detection. For timeliness of the notification the date of receipt by us is decisive. Untimely notification of faults results in expiration of the customer's warranty rights pertaining to the respective fault.
 - After our inspection and judgement the goods are faulty and the material defect is caused by faulty material and/or inappropriate processing, and is not due to inadequate handling.
- 7.2 Claims of customers due to faults are limited to 24 months, starting from the delivery of the goods. This does not apply in the event of (1) intention or fraudulent concealment of the fault, (2) assumption of any warranty for the properties and condition of the goods by us and deviations in the actual properties and conditions from the warranted properties and conditions of the goods, as well as (3) an object, which has been used according to its normal application in a construction and which has caused the defectiveness of the construction. The earlier stated limitation period of two years for warranty claims also does not apply in the event that the damage results from gross negligence on the side of our lawfully appointed representatives or executives or in the event of personal injury or liability due to unlawful acts on our part. If the fault exists on grounds of real property rights of a third party or any other right, listed in the land register, and due to which the withdrawal of the object can be demanded, the limitation period is three years. Legal provisions pertaining to the limitation period of possible rights of recourse according to Section 479 BGB (German Civil Code) as well as those pertaining to limitation and cut-off periods according to the Product Liability Act remain unaffected.
- 7.3 The customer has to send the rejected goods to us or to a third party named by us, if we so request.
- 7.4 Customary deviations between ordered quantities and delivered quantities are permissible and do not constitute a fault.
- 7.5 Possible claims of a customer due to a fault are limited to the right of supplementary performance. This performance is executed in our discretion through elimination of the fault or through delivery of a fault-free object.

- 7.6 We are not liable for exchanged parts or for repairs which were not carried out by us.
- 7.7 As far as we are obliged to warrant goods due to faults, this warranty is limited according to Item 8 irrespective of legal grounds, including possible warranty claims due to positive violation of contractual duty, culpa in contrahendo and unlawful action.
- 7.8 Possible rights of recourse of the customer according to Section 478 BGB (German Civil Code) remain unaffected. In case we are liable according to legal provisions this liability is limited to the provisions of Item 8. Expressly excluded from claims are loss of earnings, consequential damages or added cost for the purchaser or similar cost and expenditure incurred by the customer through usage or during usage of the product.
- 7.9 In the event that we sell goods with the aim to fulfil a defined function or performance for the customer, and if we are partially or wholly involved in the installation and commissioning of the goods, our guaranteed liability is divided into two (2) different parts:
1. Warranty for the goods
 2. Warranty for installation and commissioning.
- Warranty for the goods has been defined above. Warranty for installation and commissioning ends with the handover to and acceptance by the customer at the day of acceptance.
- 7.10 In cases of customer-specific developments and/or manufacturing of goods according to customer specification we guarantee, that we will carry out our work to the best of our knowledge on the sole basis of our existing knowledge, skill and experience. Conformity to and assurance of all customer specifications and expectations cannot expressly be guaranteed.
- Our warranty for the goods comprises exclusively the delivered scope of supply and services corresponding to the previously defined warranty conditions. On special request by the customer we will compile a list of all discrepancies between the performance of our work result and the original specification.
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8. Liability

- 8.1 For intentional damage or damage due to gross negligence on the side of our lawful representatives or executives as well as for personal damage we are liable in accordance with legal provisions. In the event of intention or gross negligence on the part of vicarious agents as well as in the event of slightly negligent violation of essential contractual obligations which are indispensable to achieve the contractual purpose and the strict compliance of which the customer must therefore be able to rely on, we are liable in accordance with legal provisions for such damage, the nature and scope of which we were able to anticipate on conclusion of the contract. Otherwise, compensation of claims of the customer for indirect or direct damage - no matter on which legal grounds, including possible claims for compensation due to violation of obligations from preliminary contracts as well as from unlawful actions - are excluded.
- 8.2 Possible liability according to the Product Liability Act remains unaffected.
- 8.3 The limitations of liability mentioned in this Item 8 also applies to possible liabilities against our customers by our lawful representatives, executives and other vicarious agents.
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9. Place of Performance, Place of Jurisdiction and Applicable Law

- 9.1 Place of Performance for deliveries and payments is Raunheim.
- 9.2 In case the customer is a merchant, a corporate body organised under public law or a separate public asset, Raunheim is exclusive Place of Jurisdiction for any and all direct or indirect disputes arising from the contractual relationship. We are entitled to go to any legally responsible court instead of the court of the place of jurisdiction above.
- 9.3 Applicable law is the law of the Federal Republic of Germany with the exclusion of the provisions of the agreement of the United Nations Convention on contracts for the international sale of goods.