

Standard Terms and Conditions

of

Flintec GmbH · Bemannsbruch 9 · 74909 Meckesheim - Germany

1. Validity of these standard terms and conditions of business

- (a) The following conditions apply excluding any other terms inconsistent herewith that the buyer might seek to impose on the business relationship between us and himself, including but not limited to all current and future shipments to the buyer. Orders that are based on conditions of purchase printed on standardized purchase order forms are deemed as following our terms of sale even if we do not explicitly reject any other conditions.
- (b) If our standard terms and conditions of business are already known to the buyer, they remain valid for future business dealings as well. We are not required to inform the buyer about these terms again. The acceptance of our shipments or services rendered is deemed as acknowledgement of our terms.
- (c) With his order, the buyer explicitly accepts the exclusive validity of our terms and conditions of business. Agreements that amend or change these conditions, additional agreements, and conditions set forth by the buyer are only effective if they are confirmed by us in writing. Our commercial representatives and sales agents are not authorized to make binding representations.

2. Offers and conclusion of contract

- (a) All offers are subject to confirmation, including but not limited to prices and terms of delivery.
- (b) The supporting documents pertaining to the offer serve only as a guide for the buyer and are not to be regarded as an agreement or the acceptance of a warranty regarding the quality of the merchandise or service described and may not be passed on to third parties. With regard to product names, designations, labels, etc. as well as cost estimates and other documentation (hereinafter referred to as documents), we reserve all proprietary and copyright-related rights of exploitation without reservation. The documents can only be made accessible to third parties with our prior approval and, if the buyer does not place an order with us, are to be returned immediately upon our request.
- (c) Pictures, notes, drafts, etc. as well as information about weight, other technical details and features of the goods in offers and their pertaining documents are not binding. They only serve as an orientation for the buyer unless they are explicitly identified as binding.
- (d) Cost estimates for repairs and fixtures will be drafted as diligently and accurately as possible, but they are not binding.
- (e) We accept orders by written confirmation. Only the content of such written order confirmation shall be decisive and legally binding for the contractual relationship and the scope of delivery; additional agreements and oral statements made by employees or agents are required to be included in the written order confirmation in order to become effective. If not accepted by written order confirmation, orders shall be considered accepted upon execution.

3. Prices and payment

- (a) All prices are in Euros and subject to VAT (net price) unless explicitly provided otherwise in the offer. All prices are ex warehouse in Meckesheim, Germany, packaging included.
- (b) The applicable VAT will be separately listed on the invoice unless the shipment is, according to German tax law, not subject to VAT.
- (c) We will not increase prices within the first six (6) weeks upon contract conclusion unless, due to official ordinance, price factors (e.g. duties, increase of VAT, etc.) increase during the time between order placement and shipment. In this case, we are entitled to adjust the price accordingly. Thereafter, we reserve the right to adjust prices pursuant to § 315 BGB (German Civil Code).
- (d) All invoices are due net thirty (30) days after the date of invoice unless agreed otherwise.
- (e) The buyer is neither entitled to withhold nor to offset payments due to counterclaims which are not based on this contractual relationship unless such counterclaims are uncontested or final and unappealable.



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Svenska Handelsbanken AB
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EURO (€): IBAN: DE 65 5142 0600 0012 2120 07

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- (f) Bills of exchange that we previously agreed to are accepted only as conditional payment. Discount and bill charges according to the private bank rates plus VAT have to be borne by the buyer.
- (g) In the event of delayed payments, we are entitled to assert the legally applicable default interest rate on the invoiced amount, unless we can prove higher or the buyer lower damages caused by such delay.
- (h) Substantial deterioration of the financial status of the customer or other circumstances which significantly impair his credit-worthiness result in the immediate maturing of all our claims even if the buyer has provided us with bills of exchange. In such cases, we are furthermore entitled to render our services only upon payment of the accounts receivable due, upon advance payment, or upon the provision of security. If our request to do so is unsuccessful, we are also entitled to withdraw from the contract. If the buyer violates the terms of payment continually or in a considerable manner, we are entitled, upon unsuccessful expiration of a reasonable term of payment, to claim damages instead of payment. The buyer's liability for damages caused by default remains unaffected hereby.
- (i) The place of fulfillment for payments is Meckesheim. The regulations in § 270 sec. 1 BGB (German Civil Code) remain unaffected hereby.
- (j) Commercial representatives and sales agents have no authority to enter into agreements about collection or deferment of payment.
- (k) Decisive for the price calculation is our determination of the services to be rendered and the units and quantities to be delivered unless the buyer objects immediately.

4. Delivery and time of delivery, shipping, passing of risk

- (a) Unless otherwise agreed, the delivery will be effected ex distribution center Meckesheim.
- (b) If the buyer arranges for the collection of the goods, the risk of accidental loss and deterioration is passed on to the buyer upon notification of readiness for delivery. In all other cases, this risk is passed on to the buyer when the merchandise is handed over from us to the carrier.
- (c) If the buyer does not collect the merchandise at our distribution center but requests shipment, all deliveries are made at the buyer's expense and risk. We do not retrieve any packaging. Packaging that we are legally required to dispose of will be handled by third parties upon request of the buyer. Type of shipment and shipping route will be chosen by us. Additional costs due to any different request by the buyer will be at his own expense. If the parties have not determined a specific type of shipment, we will ship the goods in the way that seems most advantageous, but we do not provide any warranty as to the safest, most economic and fastest shipment.
- (d) If the buyer requests shipping, we are entitled to insure the shipment at the buyer's expense. Any claims arising from such insurance that we might be entitled to in the event of damages will be assigned to the buyer immediately upon his payment of the relevant insurance premium to us.
- (e) If the shipping is delayed due to circumstances which are the fault of the buyer, all risk is passed on to the buyer on the day of the notice of readiness for delivery.
- (f) If the buyer does not accept the goods immediately upon their readiness for delivery, we will, if possible, store them for him at his own risk. This storage does not absolve the buyer from his obligation to make payment, which starts at the time of readiness for delivery of the goods. As of the third month, we are entitled to charge the buyer a storage fee of 1% of the invoiced amount per each month started if the goods are not collected by the buyer or shipment is delayed upon request of the buyer for more than two months. Storage fees are limited to 10% of the invoiced amount unless we can prove in the individual case that we have incurred higher costs.
- (g) In principle, the specified delivery time shall be considered only an approximate indication. Should we be hindered from on-time delivery by unpredictable events or events which are not our fault and which are inevitable even when using reasonable care, the delivery time shall be extended appropriately.
- (h) Delivery time begins with the dispatch of the order confirmation, but not prior to receipt of any previously agreed advance payment, not before clarification of all technical details and not before the buyer has fulfilled all requirements that are, with regard to the business transaction, his responsibility. In particular, the delivery time begins not before the buyer has submitted to us all documents that might possibly be required. If the buyer fulfills his obligations with delay, the delivery time will be extended accordingly. The period between dispatch of the order confirmation and the fulfillment of the buyer's obligations will be added to the originally calculated delivery time. Dates of delivery will be postponed accordingly.
- (i) The delivery time is deemed to be complied with if the goods have left the plant or the readiness for delivery has been communicated before the delivery time expires.
- (j) Reasonable partial deliveries to the buyer are permissible.



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- (k) Upon our request, the buyer is required to officially accept the delivered goods immediately upon delivery and to confirm such acceptance in writing unless the buyer detects tangible defects in the delivered goods.
- (l) If the buyer does not accept the merchandise, we are entitled to withdraw from the contract upon the unsuccessful expiration of a deadline of seven (7) days specified for the acceptance of the goods and to demand compensation for futile expenses.
- (m) If we are hindered from fulfilling our obligations by unpredictable events which are inevitable even when using reasonable care, we are entitled to withdraw from the contract, irrespective of whether those events happen to us or our suppliers. If such events make our delivery or service impossible, we are released from our obligation to deliver and all other obligations relating hereto. We will immediately inform the buyer about such incidents. Upon such withdrawal from the contract, the buyer is not entitled to any damages due to the unfulfilled delivery or service unless the claim is either based on gross fault on our or on our vicarious agents' part, or on bodily injury, danger to life and health.
- (n) If we are in default, the buyer can only withdraw from the contract if the appropriate extension of the deadline set by him has expired. The buyer is neither entitled to claim damages due to non-performance or breach of ancillary obligations nor to assert other rights in connection with delivery delays unless the default has been caused by gross fault on our part.
- (o) The above mentioned provisions are also applicable in the event that we do not keep the installation appointment previously agreed upon.

5. Reservation of title

- (a) We reserve title to the delivered goods until all current and future claims resulting from the current business relationship with the buyer have been settled. Reservation of title is also maintained even if individual claims have been included in current invoices and the balance has been settled and accepted. Purchase price claims remain valid despite payment, as long as draft-related liabilities assumed by us continue to exist in this context – as e.g. within the scope of check- and draft-related procedures.
- (b) The buyer is entitled to dispose of delivered goods within the regular course of business, as long as he complies with his obligations arising from the business relationship with us on time.
- (c) At this point in time, the buyer assigns all claims arising from the sale of goods to which we have proprietary rights and all claims based on other legal grounds (insurance, compensation for damages, etc.) to us as security, proportionately to our share of ownership of the sold goods. Herewith, we accept such assignment already now.
- (d) Any processing or combining of the goods will be carried out for us by the buyer, without any liability originating from this procedure on our part. If our goods are processed or combined with other goods which do not belong to us, the buyer transfers, in order to secure our claims, co-ownership of the new object, proportionately to the value of the merchandise under reservation, over to us with the condition that the buyer stores the new object for us free of charge. Herewith, the parties agree to this transfer already now.
- (e) If the buyer combines or connects the delivered goods with a principal object of a third party for a fee, he assigns his claims for remuneration against the third party to us as a form of security, up to the invoiced amount of the delivered goods. Herewith, we accept such assignment already now.
- (f) Even after such assignment, the buyer is still entitled to collect such claims against the third party. Our authorization to collect such claims ourselves remains unaffected hereby. We obligate ourselves though to refrain from doing so as long as the buyer duly fulfills his obligations to make payment. If the buyer uses this authorization to collect, we are entitled to such proceeds up to the amount of the delivery price for the merchandise under reservation agreed between us and the buyer. Bills of exchange which are based on the assigned claim and submitted to the buyer will be endorsed and assigned to us. The buyer deposits the endorsed bills on our behalf.
- (g) Upon our request, the buyer must provide us with all necessary information about the quantity of the goods falling under our ownership and about the accounts receivable assigned to us. The buyer must also inform his customer about the assignment.
- (h) The buyer is required to store the merchandise under reservation properly and to insure it against loss and damage at his own cost. Herewith, he assigns all claims arising from such insurance contracts to us in advance. We accept this assignment already now. The buyer also assigns any claims against third parties who have caused damage or loss of the merchandise under reservation to us. Herewith, we accept this assignment already now.



- (i) If the buyer defaults in his payment obligations to us or if he breaches an obligation arising from the reservation of title agreed upon, the entire remaining balance becomes due immediately, regardless of any other terms of payment previously agreed upon. In this case, we are entitled to demand the return of the delivered goods and to collect them at the buyer's premises without being obligated to previously withdraw from the contract. The buyer's right to possess the delivered goods (according to the German legal principal of "Besitz") terminates on the day the remaining balance becomes due according to the above provisions. The retrieval of the delivered goods constitutes a withdrawal from the contract only if we confirm this in writing. In the event of default or any of the above breaches of obligation on part of the buyer, we are entitled to inform the buyer's customers about the assignment of the buyer's claims and collect such claims. In addition, we are entitled to withdraw from the contract and to claim damages due to non-performance in the event of default or any of the above mentioned breaches of obligation on part of the buyer.
- (j) The buyer is required to assert and protect all of our rights resulting from the above mentioned conditions for collateral security also against any third party; in particular, he is required to refer to our ownership in case of threats of distraint and to inform us immediately about any distraint already executed or other impairment of our ownership rights.
- (k) If the value of the collateral exceeds our accounts receivable by more than 10 percent, we will, upon the buyer's demand, insofar release collateral at our choice.

6. Technical assistance

- (a) We provide technical assistance to the best of our knowledge. All the particulars and information about aptitude and use of our goods do not free the buyer from carrying out their own tests and experiments regarding the suitability of the products for the intended procedures and purposes.
- (b) The period of limitation for claims arising from incorrect advice is three years as of the end of the year in which the claim originated. If the claims are based on willful act, the statutory provisions regarding the beginning of the limitation period apply.

7. Duty of inspection and notice of defects

- (a) The buyer shall inspect the merchandise and file any complaints of defects with us in writing immediately, but not later than fourteen (14) days after receipt of the goods at their final destination (complaints are not to be filed with our commercial representatives and sales agents).
- (b) Complaints for hidden defects must be filed in writing no later than three (3) workdays after detection.
- (c) In order to observe the time limit for complaints, the timely dispatch of a written notice of defects including the exact description of the defects suffices.
- (d) If complaints or notices of defects are not filed in due time, the delivery is regarded as approved.
- (e) The buyer must test - if necessary, by means of trial processing - whether the delivered merchandise is suitable for the intended use.
- (f) If the buyer does not fulfill the duty of inspection which, in accordance with clause 9 e), is his responsibility or if he does not do so in a timely or proper manner, claims arising from a warranty against defects or other claims for damages by the buyer against us are excluded insofar as such inspection would have reduced the damage. As to our further liability, please refer to clauses 8. and 9.

8. Warranties

- (a) If the delivered goods have material defects at the time when the risk is passed, the buyer is, at our option, entitled to either rectification of defects or a replacement delivery. We are entitled to refuse rectification of defects or a replacement delivery if they constitute an unreasonable amount of effort or expenditure. The buyer is then only entitled to the rights determined in clause 10 b). Unreasonable effort or expenditure for the selected remedy is to be assumed if the costs of the remedy exceed the value of the object at the passing of risk by at least 10%.
- (b) If we do not succeed to remedy any quality defects within an appropriate period, the buyer is, at his option, entitled to either reduce the price, withdraw from the contract, or claim damages according to clause 9. If the remedy chosen is unacceptable for the buyer, he is immediately entitled to the rights stipulated in sentence 1) of this subsection. The right to withdraw from the contract and the right to claim damages is excluded in the event of insignificant quality defects.



- (c) The warranty period is 24 months. The warranty period begins with the date and time of the delivery of the ordered merchandise as per clause 4 of these terms, but no later than at the time the invoice is issued; if the buyer has requested shipment or if he does not collect the merchandise on time, the warranty period starts at the time of notice of readiness for delivery.
- (d) In particular, a warranty for defects is not applicable if and insofar as damages to the delivered goods or to any other of the buyer's legal interests can be attributed to any of the following causes:
- incorrect information about the purpose, location, or conditions of use of the delivered goods;
 - incorrect processing, mounting, handling;
 - incorrect installation of the delivered goods by the buyer or a third party, unless the incorrect installation is based on our instructions;
 - non-compliance with the instructions in the operating manual or those given by us regarding commissioning and operation of the delivered goods;
 - Interventions undertaken by persons not authorized by us or usage of non-original spare parts or production facilities;
 - usual or excessive wear which cannot be attributed to manufacturing or material defects;
 - damages caused by overvoltage, e.g. in case of lightning;
 - defects that are caused by overload, welding or other external influences that do not correspond to normal usage .
 - excessive use or strain or usage outside specification.
 - furthermore, defects and damages that are the result of product employment in aggressive environmental conditions, such as through the influence of chemical and corrosive substances or operation outside the specified operating temperature range or other specified parameters, in as far as employment in these environmental conditions were not specifically agreed upon in contract form, are exempt from warranty coverage.
- (e) The precedingly specified warranties will be granted only to the extent as the goods are used at the place of delivery agreed upon. Expenses that increase because the purchased object has been moved to another place, must be borne by the buyer.
- (f) If the buyer or one of his customers sells the goods delivered by us to an end-user, the legal provisions for the warranty of defects as per §§ 478, 479 BGB (German Civil Code) are applicable to the buyer. Payments for damages though will only be made as per clauses 8 (b) and 9. If the buyer does not fulfill his duty of inspection, the requirement to give notice of defects, and the testing of the goods as per clause 9, or if he does not do so in a timely or proper manner, the buyer's rights against us regarding the warranty for defects expire.
- (g) Of all those costs that arise directly from a rectification of defects or a replacement delivery, we bear Flintec's costs for directly necessary expenses, in particular for shipping, travel, labor and material, as well as for replacement parts, in as far as the goods were installed in accordance with instructions of the appropriate product handbook. The customer will bear the costs for removing the defective part and installing the delivered replacement part, in as far as the installation of the originally delivered part was not due by Flintec, based on the contractual relationship between the customer and Flintec. All other costs are to be borne by the buyer.
- (h) The remedy of quality defects as per clause 10(a) or the payments as per (b), (f), (g), and clause 9 are, in any case, carried out without the acknowledgment of any legal obligation.

9. Miscellaneous claims for damages

In case of only a negligent breach of duty by us or our vicarious agents, our liability is limited to the typical contractual, foreseeable damage. This does not apply in the event of a gross negligent breach of obligations. Neither does this apply in case of infringement of an essential contractual obligation and in case of injury to life, body or health. In addition, the exclusion of liability is neither applicable in cases in which - according to the German Product Liability Act – one is liable for personal injury and damage to privately used objects due to defects to the goods delivered. If we make payments for damages, we do so without acknowledgement of a legal obligation.

10. Data protection

Please read our data privacy statement and our privacy and cookie policy under <https://www.flintec.com/de> to understand how we track and handle your personal information.



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11. Validity clause

If individual provisions of these terms and conditions are invalid, the remaining stipulations remain effective. The invalid provision is to be replaced with a valid one the meaning of which shall come as closely as possible to the intended economic objective of the invalid provision.

12. Venue and place of performance

- (a) Place of performance and legal venue for proceedings regarding business between merchants (according to the German legal concept of “kaufmännischer Verkehr”) - also for litigation regarding deeds, drafts, and checks - is our registered office and the competent court as per §12 and §17 ZPO (German Code of Civil Procedure).
- (b) The contractual relations with the buyer are solely subject to the laws of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) and excluding international civil law.

May 2018

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