

General Terms and Conditions.

RATIONAL International AG.



I. Scope

1. These General Terms and Conditions shall apply without exception to all orders placed with us, including future orders, even if the order from the customer contains divergent terms and conditions. Such terms and conditions – regardless of when we receive them – are explicitly rejected.
2. Amendments and additions to these General Terms and Conditions of Business shall be made in writing.

II. Quotation/order confirmation

1. Our quotations are non-binding unless they are explicitly designated as being binding. Any documents such as catalogues, brochures, illustrations, etc. supplied with the quotation contain only approximate details and descriptions. Ownership and copyright of drawings, designs, models and other documents rest with us. Such documents must not be made available to third parties and must be returned to us immediately upon request.
2. Contracts shall be formed as a result of our written order confirmation, the contents of which shall prevail. Amendments and subsidiary agreements shall be in writing.
3. The right of technical modifications is reserved.

III. Delivery and transfer of risk

1. A binding delivery date shall be agreed only when it has been confirmed as such by us in writing. Binding delivery dates are subject to the precondition that the customer has notified us in full and correctly of all technical prerequisites, including all dimensions, etc. If it should transpire that this is not the case or if the performance of the order is amended by agreement, we shall not be responsible for resultant delays and the delivery date shall be amended as appropriate.
2. A binding delivery date shall be deemed to have been adhered to if the delivery is dispatched on this date to the customer or the specified delivery address. Adherence to any delivery date is subject to the timely performance of contractual obligations by the customer, including the timely receipt of agreed advance payments.
3. The delivery date shall be further adjusted as reasonable in the event of actions in the context of labour disputes, in particular strike and lockout, as well as the occurrence of other unforeseeable obstacles not of our volition, where such obstacles have a demonstrable and significant effect on the manufacture or delivery of the delivery item. This shall also apply if such circumstances arise in the case of our supplier.
4. In the event of a delivery delay for which we are responsible, the customer shall be able to withdraw from the contract only after fixing a reasonable final deadline of at least four weeks and explicitly giving notice of rejection of the contract. Claims for damages shall be excluded subject to the rules in section VI.6.
5. Part deliveries shall be allowed and shall be invoiced when they are made.
6. The risk shall always pass to the customer when the goods have left our premises.
7. We will not perform installation and commissioning work, which shall be included in the scope of delivery only if there is an explicit special written agreement.

IV. Retention of title

1. The goods delivered shall remain our property until payment in full of all claims relating to the business connection. We shall be entitled to register a retention of title to the goods delivered with the Swiss Registry of Retention of Title at the customer's domicile or with similar registers in other countries. The customer agrees to assist RATIONAL in any steps that need to be taken in order to complete such registration. Resale of the retention of title to third parties shall require our agreement. In the event of resale, the customer shall hereby cede its claims on us and shall undertake to provide us with all details required to recover such claims.
2. The customer shall be entitled to the processing and combination of the goods within the scope of his proper business operations. To secure the retention of title the customer herewith transfers joint ownership of the common item originating from processing or combination to us. The co-ownership share is determined on the basis of art. 726 and 727 of the Swiss Civil Code (CC).
3. The customer may not pledge secured goods, nor use them as security. The customer shall notify us immediately if the secured goods are seized by third parties. The customer shall be obliged to treat the secured goods with care, insure them against theft, damage, destruction and accidental loss (in particular fire and water), and to provide evidence of this on request.
4. Where the value of all our security rights exceeds the amount of all secured claims by at least 20%, we shall release the corresponding part of the secured rights. We shall also be entitled to enforce all our rights arising under the aforementioned retention of title, including the recovery of ceded claims, as soon as the customer is in default of payment.

V. Prices and payment

1. Unless otherwise agreed, our prices are ex works, and do not include the applicable statutory value added tax. We reserve the right to define minimum order quantities, and to charge handling fees for small orders.
2. For any individual delivery agreement other than ex works,
 - › the terms “freight” and “transport” do not cover costs for additional services (e.g. fixed delivery date, express). Any such services will be invoiced separately;
 - › the terms “freight insurance” and “transport insurance” do not cover costs for transport damages, unless reported and specified in writing immediately upon delivery. Verbal and/or subsequent complaints about transport damage are excluded.
3. For orders, the performance of which exceeds a period of three months, we retain the right to adjust the confirmed prices.
4. Amendments made after our order confirmation at the request of the customer shall be invoiced separately.
5. Except when otherwise stipulated, our invoices are due for payment immediately.
6. Regardless of previously granted payment terms, we reserve the right to request immediate advance payment of the agreed sales price, or to demand adequate collateral:
 - (i) for first orders from new customers,
 - (ii) in case of insufficient creditworthiness,
 - (iii) upon subsequent deterioration of the buyer's solvency (e.g. institution of insolvency proceedings or similar procedures, default in payment, reduction or cancellation of credit limit by our credit insurer, or significant deterioration in the credit rating issued by a recognized credit agency).

If such a claim is not met by the buyer immediately, we can withdraw from the purchase contract without giving rise to any liability for damages.

7. Payment shall be made exclusively to us or to the bank account specified in our invoice. Payment instructions, cheques and in particular bills of exchange shall be accepted only by special agreement or on account of payment, not as performance of payment. Recovery costs, and bill of exchange and discount charges shall be borne by the buyer. Renegotiation and prolongations shall not be deemed to be performance. The buyer's payment obligation shall not be affected by a request for reduction, by the arrears of other parts of the sales contract or by counterclaims. All withholding and set-off rights against our payment claim shall be excluded.
8. In the event of non-performance by the customer, we shall be entitled to demand flat-rate damages of 20% of the contractual consideration. Non-traders shall be free to provide evidence of lesser damage. The right to claim higher damages which have actually occurred shall be unaffected hereby.

VI. Warranty and damage

1. The customer shall be responsible for the accuracy and completeness of the specifications, dimensions and other details supplied to us for performance of the order. Errors in this respect on the part of the customer shall not justify deficiencies in our performance.
2. Obvious deficiencies in our performance and/or work shall be notified and specified in writing immediately following performance, and non-obvious deficiencies immediately they are identified. Verbal and/or later notifications of deficiencies cannot be taken account of by us and exclude any warranty claims.
3. Deficiencies shall not include minor deviations from the agreed quality, minor impairments to usability, normal wear-and-tear or damage occurring after the transfer of risk as a result of improper or negligent handling, excessive demands, unsuitable equipment, defective construction work, an unsuitable site or as a result of external influences which are not assumed under the contract, and in the case of software errors which cannot be reproduced. If the customer or third parties undertake inappropriate modifications or maintenance work, claims for deficiencies shall be excluded in respect of these and of consequences arising therefrom.
4. We shall rectify justifiably asserted deficiencies in our performance free of charge by reworking or by making a replacement delivery, at our choice. The customer shall be responsible for providing evidence of the deficiency.

We can refuse to rectify deficiencies if the cost of so doing is disproportionate. If the warranty to be performed by us is abortive within an additional period reasonably set by the customer, the customer can – without prejudice to any claim for damages under point 5 – demand a reasonable reduction in the consideration or withdraw from the contract.

5. Claims for damages by the customer, for whatever legal reason, in particular due to infringement of obligations under the contractual obligation and from impermissible actions, shall be excluded.

This shall not apply in cases of intent or gross negligence, for a warranty entered into by us, for damage resulting from a culpable infringement of major contractual obligations or in other cases of legally binding liability. However, liability for infringement of major contractual obligations shall be limited to replacement of the typical, foreseeable damage, except in the case of intent or gross negligence.

6. Claims for material deficiencies shall expire by limitation in twelve months. This shall not apply if a longer period is laid down by law (building works and material for building works, deficiencies in building works). To the extent permitted by law, claims for material deficiencies of used goods shall expire by limitation in six months.
7. More extensive or other warranty or damages claims by the customer against us and our agents due to a material defect shall be excluded. Any further liability for indirect and consequential damages is – to the extent permitted by law – expressly excluded.

VII. Disposal

1. After discontinuation of use, and at the request of the customer, the unit shall be collected, as a chargeable service, by a specialist disposal contractor, and conveyed for environmentally friendly recycling. Disposal via end-of-life appliance containers at collection points shall be expressly prohibited. You may obtain the contact details of a specialist disposal contractor from your responsible RATIONAL service representative.
2. The customer shall place any commercial users to whom he transfers the goods supplied (third party) under a contractual obligation to dispose of said goods in a proper manner and in accordance with the pertinent statutory provisions, after discontinuation of use. In the event that the appliance is passed on to others, the customer shall impose upon third parties an obligation to transfer this contractual duty to his own buyers.
3. If the customer should omit to place a third party under an obligation to assume the duty of disposal or to pass this contractual obligation on to his own buyer, then after discontinuation of use, he shall, given his relationship to RATIONAL, take back the goods supplied, at his own expense, and dispose of them in accordance with the pertinent statutory provisions. If in such a case a third party should approach RATIONAL as the manufacturer, and request take-back of the unit, the customer shall, upon RATIONAL's initial request, and at his own cost, assume responsibility for its proper disposal and environmentally friendly recycling. If he should be unable to do so, he shall notify RATIONAL of this fact upon the latter's initial request and within one week. In this case, the customer shall bear all disposal costs incurred by RATIONAL.

VIII. "No Russia Clause"

1. The customer must not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied by RATIONAL that fall under the scope of article 12g of Council Regulation (EU) No 833/2014. This limitation equally applies to Belarus.
2. The customer shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.
3. The customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph (1).
4. Any violation of paragraphs (1), (2) or (3) entitles RATIONAL to seek appropriate remedies, including, but not limited to:
 - (i) termination of the commercial relationship between RATIONAL and the customer; and
 - (ii) a penalty of the equivalent of EUR 25.000, or 5% of the customer's annual trading volume with RATIONAL, whichever is higher.
5. The customer is obliged to inform RATIONAL immediately about any problems in applying paragraphs (1), (2) or (3), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The customer shall make available to RATIONAL information concerning compliance with the obligations under paragraph (1), (2) and (3) within two weeks of the simple request of such information.

IX. Legal venue, place of performance

1. The exclusive legal venue for all legal disputes as well as the place of performance for all obligations arising from the contractual relationship shall be Heerbrugg (CH) unless provided otherwise by mandatory legal provisions. RATIONAL shall however at its sole discretion be entitled to take legal action at the customer's domicile.

X. Concluding provisions

1. Swiss law shall apply for rulings relating to all legal relationships with the customer. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.
2. If part of the contract or of these General Terms and Conditions of Business becomes invalid or impracticable, the validity of the contract or of these General Terms and Conditions of Business shall not otherwise be affected.

XI. Cooperation in product surveillance

1. In order to inform the respective owners of the products in the event of a possible product risk and to initiate security measures, traceability of the products is necessary.
2. Accordingly, in the event of possible product risks, the customer is obliged to support RATIONAL in informing the owners of a product, as long as the customer has passed the product on to the respective owner.
3. In order to comply with this obligation, the customer shall keep the following information for all products delivered to and passed on to the respective owner by him:
 - > serial number of the delivered product
 - > owner and installation site
 - > technical modifications (e.g. change of gas-type)
4. In the event of a possible product risk, the customer is obliged to pass on the information provided by RATIONAL to the customer regarding the product risk to the respective owners of the products passed on by the customer, at the expense of RATIONAL.