

THERMOHEAT B.V., THERMOHEAT BEHEER B.V., THERMOHEAT HOLDING B.V.

SECTION I. GENERAL DEFINITIONS

- 1.1. General Conditions: these Thermoheat General Sale Conditions;
- 1.2. Article: an article in these General Sale Conditions;
- 1.3. Professional errors: failures such as miscalculations, carelessness, negligence, omissions or incorrect advice that ought to be avoided by a skilled and diligent Contract Party in the given circumstances, having regard to normal attentiveness, normal skilled knowledge and a normal manner of performance;
- 1.4. Contract Party: every natural or legal person with whom Thermoheat enters into or wishes to enter into an Agreement, who buys or purchases products or services from Thermoheat, and every other party who places an order with Thermoheat and enters into negotiations with Thermoheat;
- 1.5. Day: one calendar day;
- 1.6. Services: work done or to be done by Thermoheat for a Contract Party on the basis of an Agreement;
- 1.7. Products: all property or assets supplied or to be supplied by Thermoheat to a Contract Party on the basis of an Agreement;
- 1.8. Installations: all Products specifically developed, manufactured and supplied by Thermoheat on the basis of the instructions from the Contract Party;
- 1.9. Agreement: all agreements including these General Sale Conditions between Thermoheat and a Contract Party as well as all other instructions that the Contract Party issues to Thermoheat and also all associated actions including legal acts;
- 1.10. Party/Parties: Thermoheat and the Contract Party, individually and collectively;
- 1.11. Thermoheat: the Thermoheat entity that is involved in the Agreement, being Thermoheat B.V., Thermoheat Beheer B.V., Thermoheat Holding B.V. and/or all businesses belonging to the same group of companies, meaning that these Thermoheat entities may also rely upon the rights accruing to that Thermoheat entity on the basis of the Agreement and/or these General Sale Conditions;
- 1.12. Working Day: a calendar day except for weekends and generally recognised public holidays within the meaning of Sections 3(1) and 3(2) of the Dutch General Extension of Time Limits Act (*Algemene Termijnenwet*) on which the agreed Services are provided and/or the agreed Products are supplied.

ARTICLE 2. SCOPE OF APPLICATION

- 2.1. These General Sale Conditions apply to every Agreement, obligation, legal relationship and other contract, including but not limited to all current and future requests, quotations, tenders, instructions, orders, confirmations, supplies, collaborations, services and legal acts between the Parties.
- 2.2. These General Sale Conditions also apply for the benefit of employees at Thermoheat and third parties engaged by Thermoheat in the performance of the Agreement.
- 2.3. The application of any general terms & conditions used by the Contract Party, howsoever they may be described, is hereby explicitly excluded.
- 2.4. Deviations from and/or amendments and/or supplements to these General Sale Conditions may only be agreed explicitly and in writing by a duly authorised representative of Thermoheat and apply only to the specific Agreement for which they are made. The General Sale Conditions as they stand will apply in full to any subsequent Agreement between the Parties.
- 2.5. If the contents of the Agreement differ from these General Sale Conditions, the contents of the Agreement will take priority.
- 2.6. If any one or more of the provisions in these General Sale Conditions should for any reason prove to be null and void or be annulled, the remaining provisions in these General Sale Conditions will remain in full force and effect and Thermoheat and the Contract Party will enter into discussion in order to agree new provisions to replace the null and void or annulled provision(s), having regard as far as possible to the purport and scope of the null and void or annulled provision.
- 2.7. In the event of any discrepancy between the Dutch original text of these General Sale Conditions and any translation thereof, the Dutch version will always take priority.

ARTICLE 3. COMPLETION OF THE AGREEMENT

- 3.1. All quotations by Thermoheat are issued without obligation, are based on information provided by the Contract Party and remain open for 60 Days. Thermoheat is not bound by orders from the Contract Party. The Agreement between Thermoheat and the Contract Party is only finalised if and as soon as Thermoheat has confirmed the Contract Party's order in writing or else once Thermoheat has started to perform the Agreement.
- 3.2. An Agreement concluded with a representative or intermediary for Thermoheat is only valid if and to the extent that the representative holds a written power of attorney for that purpose. Powers of attorney may be requested in writing and may also be inspected at the office premises of Thermoheat.
- 3.3. Deviations from, amendments and/or supplements to an Agreement are only valid if they are agreed in writing with a duly authorised representative of Thermoheat.
- 3.4. Thermoheat enters into all Agreements subject to the condition precedent that the Contract Party is and remains sufficiently creditworthy for complying with its terms.
- 3.5. The provisions in an Agreement between Thermoheat and a Contract Party only apply to the Agreement in question and the Products to which it relates.
- 3.6. Unless explicitly agreed otherwise, Thermoheat has authority to engage third parties in the performance of the Agreement or to have third parties perform all or part of the Agreement.

SECTION II. PERFORMANCE OF THE AGREEMENT

ARTICLE 4. Supply of Products and Services

- 4.1. Products are supplied EXW from the warehouse at Thermoheat or such other place as may be designated by Thermoheat (Incoterms 2020), on the explicit proviso that Thermoheat will load the Products on to the first means of transport if so requested by the Contract Party and/or at the request of its carrier, all at the risk of the Contract Party, unless otherwise specifically agreed.
- 4.2. Thermoheat has also agreed with the Contract Party to install or position the Products, the risk of damage or loss of the Products transfers once their installation has been completed. Prior to completing the installation, the Contract Party bears responsibility for adequately locking up and securing the construction site and for the Products and materials that are there.
- 4.3. Delivery dates are approximations only and not deadlines, unless otherwise explicitly agreed in writing. Partial supplies are permitted.
- 4.4. The Contract Party must notify the carrier immediately after receipt of the Products of any transportation damage and send a copy of that notification to Thermoheat.
- 4.5. Products not collected by the Contract Party after the supply date remain at the disposal of the Contract Party and will be stored by Thermoheat at the Contract Party's risk and expense. Thermoheat will notify the Contract Party in writing and within three Working Days after the start of such storage of the fact that the Products are being stored and also of their location. This is without prejudice to the Contract Party's obligations to make payment and the applicable payment period.
- 4.6. Assembly and/or installation only forms part of the obligations to be performed by Thermoheat under the Agreement if this has been agreed in writing. If assembly and/or installation has been agreed, the Project Data Sheet (PDS) will record the division of responsibilities for providing the required facilities. The Contract Party must arrange for timely availability of the facilities for which it is responsible under the PDS.
- 4.7. If a failure to comply or comply sufficiently with the provisions in this Article means that additional work or costs are involved, they will be charged as such to the Contract Party.

ARTICLE 5. PAYMENT AND SECURITY

- 5.1. Unless otherwise agreed, all prices are expressed in euros (EUR) and exclude VAT and/or other government-imposed or other levies, duties, charges and costs in relation to packaging, loading and unloading, positioning, installation and assembly, insurance and transportation.
- 5.2. If there is any change in the factors that determine the costs of the Products and/or Services to be supplied (including but not limited to wages, raw materials or equipment costs payable by Thermoheat and/or currency fluctuations or cost increases imposed by government measures) after the Agreement has been finalised, Thermoheat shall be entitled to increase the agreed prices pro rata and the Contract Party shall not be entitled to cancel the Agreement.
- 5.3. Thermoheat is entitled at any time to demand prepayment for the Products and/or Services to be supplied and/or to demand security for payment thereof. The Contract Party is obliged to comply with any such demand.
- 5.4. Payment must be made on the agreed date. If no date has been agreed, payment must be made no later than 30 Days after the invoice date.
- 5.5. If the Contract Party fails to comply with its payment obligations or to do so promptly and fully, it will be deemed to be in default by operation of law and all sums due to Thermoheat will become immediately payable without further default notice; the Contract Party will also be due to pay interest equivalent to the statutory commercial interest rate pursuant to Article 6:119a of the Dutch Civil Code. Thermoheat shall be entitled to suspend performance of the Agreement in appropriate cases until the payment has been received. The Contract Party is financially responsible for all costs for storage and other costs incurred in this regard.
- 5.6. The Contract Party is financially responsible for all judicial and extra-judicial expenses associated with the collection of any claim against it. Such expenses include in any event the costs for collection agencies, court bailiffs, lawyers and experts. The extra-judicial expenses are also deemed to amount to 15% of the sum to be collected, subject to a minimum of EUR 500.
- 5.7. Any payment is deemed to be firstly a payment towards interest and/or expenses due and is then applied in reduction of the oldest outstanding invoice, whether or not the payment is stated as being for a different purpose.
- 5.8. The Contract Party is not permitted to offset any liability to Thermoheat – disputed or otherwise – against any liability by Thermoheat to the Contract Party – disputed or otherwise – unless this has been agreed in writing by both Parties.

ARTICLE 6. RETENTION OF TITLE

- 6.1. Title to the Products does not transfer to the Contract Party until the Contract Party has paid all sums due by the Contract Party to Thermoheat under current and/or previous Agreements. These sums include interest and expenses as well as all other sums due by the Contract Party to Thermoheat for any failure to comply with any Agreement.
- 6.2. The Contract Party is obliged to keep and/or make identifiable those Products that are subject to any retention of title in favour of Thermoheat and to keep them separate from any other products held by the Contract Party.
- 6.3. If and for as long as Thermoheat retains title to the supplied Products, the Contract Party is not permitted to dispose of those Products otherwise than in the normal performance of its business, nor to create any restricted real right affecting them. The Contract Party has a duty of care in relation to Products covered by a retention of title and must secure and insure them and keep them insured against all normal risks, and must also take all possible steps to prevent any reduction in their quality.
- 6.4. If the Contract Party fails in its payment obligations to Thermoheat or if Thermoheat has good reason to suspect that the Contract Party may fail to comply with those payment obligations, Thermoheat is entitled to recover Products supplied under retention of title.

- 6.5. In order to allow Thermoheat to exercise the right to recover the Products, specified in the foregoing paragraph, the Contract Party hereby grants consent to Thermoheat to enter or arrange for entry into the sites and premises where the Products are situated. The Contract Party is financially responsible for the costs of such recovery of the Products.

ARTICLE 7. COMPLAINTS

- 7.1. The Contract Party is obliged to check the supplied Products and/or Services immediately after supply for their quality and any defects and to report these to Thermoheat within a period of seven Working Days after the Products have been supplied or the Services have been performed, in writing and with sufficiently detailed reasons for the complaint. Latent defects must be notified to Thermoheat in writing within seven Working Days after they are or else reasonably ought to have been discovered. Defects to Installations must be reported to Thermoheat within 24 hours after they arise, with a sufficiently detailed report of the nature of and reasons for the complaints.
- 7.2. The Contract Party bears the onus of proving prompt notification and the correctness of the complaint. The Contract Party is obliged to lend every cooperation to Thermoheat for the commencement of an investigation into the defects.
- 7.3. Complaints will never be justified on the basis of minor deviations and differences in quality, dimensions, quantities and suchlike that are normal within the sector.
- 7.4. The Contract Party may only return supplied Products if Thermoheat has given prior written consent to do so. The Contract Party may never regard an acceptance of returns as an acknowledgement of defects in the supplied Products or as an acknowledgement of liability by Thermoheat.
- 7.5. If the Contract Party has not issued a complaint within the time limit specified in the previous paragraphs, or if the Contract Party continues nevertheless to use the supplied Products, it will be deemed to have approved of what has been supplied and to have renounced all rights and powers available to it pursuant to the law and/or the Agreement. The Contract Party is not entitled to suspend compliance with its obligations to Thermoheat in the event of a complaint.

ARTICLE 8. GUARANTEE AND LIABILITY

- 8.1. Thermoheat issues a guarantee for its Services for a period of three months after they are provided. A guarantee for Products is only issued if and to the extent that Thermoheat has acquired Products covered by a guarantee from its own supplier.
- 8.2. The guarantee does not apply to defects resulting from normal wear and tear, careless or improper use, failure to observe instructions and directions from Thermoheat, vandalism, inexpert maintenance, accidents or disasters such as fire or water damage. Nor is any guarantee issued in relation to assembly and/or repair work undertaken by third parties without prior consent from Thermoheat and not done on the instructions and at the expense of Thermoheat.
- 8.3. As regards Installations supplied by Thermoheat, the guarantee is excluded if the defect results from a failure to follow instructions from Thermoheat, including instructions in relation to drying out, heating and cooling the Installation. Nor does the guarantee cover defects resulting from exceeding the maximum permitted temperature.
- 8.4. Thermoheat is only liable for replacement free of charge or repair of defects discovered and notified promptly by the Contract Party, at the discretion of Thermoheat, during the agreed guarantee period. Every form of further liability on the part of Thermoheat, including but not limited to liability for commercial, consequential or indirect damage sustained by the Contract Party, is hereby excluded.
- 8.5. Repair or replacement does not create an extension of the guarantee period.
- 8.6. Without prejudice to the foregoing provisions, the liability of Thermoheat is in all cases limited to the invoice price for the supplied Products and/or Services causing the damage or, if the damage is covered by insurance maintained by Thermoheat, to the amount actually paid out by the relevant insurer.
- 8.7. Every claim by the Contract Party against Thermoheat shall lapse on the mere expiry of one year after the date of supply, the date of performance of the Services or of the date when the supply ought to have occurred.

ARTICLE 9. FORCE MAJEURE

- 9.1. Force majeure is understood to include the situation where performance of the Agreement is prevented, in full or in part and temporarily or permanently, due to circumstances beyond the control of the Parties, even if those circumstances were already foreseen or foreseeable at the time when the Agreement was concluded. Force majeure is understood to include but is not limited to strikes and lockouts at work, exceptionally high absence rates, delayed or failed supplies from suppliers, communications and/or transportation disruptions, pandemics, weather circumstances preventing assembly or installation, government measures, accidents and interruptions of business operations.
- 9.2. If one of the Parties is faced with a force majeure situation, it will immediately notify the other Party of the situation, confirming the nature of the force majeure and the current prospects.
- 9.3. The Parties' obligations will be suspended in the event of force majeure. If the force majeure situation is permanent in nature, the Parties will enter into discussions regarding either amendment or termination of the Agreement.
- 9.4. Thermoheat will endeavour to resume the supply of Products and Services once the force majeure situation comes to an end. The Contract Party acknowledges and accepts that this may entail delays and hereby grants Thermoheat a reasonable period for compliance. The Contract Party may not claim compensation during this reasonable period.

ARTICLE 10. TERMINATION OF THE AGREEMENT

- 10.1. If the Contract Party terminates the Agreement, the Contract Party will be due to pay to Thermoheat a termination payment amounting to 25% of the agreed price (including VAT), without prejudice to Thermoheat's right to recover from the Contract Party the damage actually sustained as a result of the termination. Unless the Parties agree otherwise in writing, orders for Products that cannot be supplied from inventory and/or Products with a limited shelf life may not be terminated by the Contract Party.
- 10.2. If:
 - a. the Contract Party fails to comply with any obligation to Thermoheat or to do so promptly, completely and correctly;
 - b. the Contract Party is declared bankrupt or an application for bankruptcy is filed, or if a moratorium on payments is applied for or granted or if a debt restructuring arrangement is applied for or granted;
 - c. all or any part of the property of the Contract Party is subject to an attachment;
 - d. the Contract Party is dissolved or liquidated, or the subject of a merger, demerger or split-off;
 - e. the Contract Party suspends or transfers its business operations or a significant part thereof;
 - f. information provided by the Contract Party to Thermoheat appears to be inconsistent with the actual situation; and if the Contract Party has not yet fulfilled all of its obligations to Thermoheat, then the mere occurrence of one or more of the above-mentioned circumstances will entitle Thermoheat either to dissolve the Agreement and recover what has been supplied as its own property, in the manner specified in Article 5.4, or else demand full payment of any sums due by the Contract Party to Thermoheat, all without the need for any further notice of default or judicial intervention. In addition, Thermoheat is at all times entitled to demand compensation from the Contract Party.
- 10.3. The Contract Party may only cancel an order for the supply of Products and/or Services or part of it with the prior written approval of Thermoheat. If the Contract Party partially dissolves the Agreement, it may not claim any reversal of work already done by Thermoheat and Thermoheat fully retains the right to payment for work already done.

ARTICLE 11. CONFIDENTIALITY; INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS

- 11.1. The Parties are obliged to each other to observe confidentiality in respect of confidential information they may obtain from each other or from other sources in connection with the Agreement or preparations for it, whether such information is written or verbal and wherever it may come from. Information is deemed to be confidential if notified as such by one of the Parties or if this is inherent to the nature of the information. Tenders, proposals, specifications and quotations as well as the prices and rates they contain are always confidential in nature.
- 11.2. Thermoheat reserves the right to require the Contract Party to sign a confidentiality agreement (NDA).
- 11.3. Thermoheat is and remains the owner of all industrial and intellectual property rights relating to the Products, Services and Installations manufactured and supplied by Thermoheat, as well as all drawings, moulds, designs, sketches, models and other items produced by or on behalf of Thermoheat for the purpose of performing the Agreement.
- 11.4. The supply of Products cannot be classed as explicit or implicit licensing for use, duplication or release to third parties of the intellectual and industrial property rights, unless Thermoheat has issued written consent for this to be done.
- 11.5. The Contract Party is not permitted to delete or amend any brand names, trade names or other designations of industrial and intellectual property rights on the Products in question.
- 11.6. If the Contract Party establishes that a third party is infringing any industrial or intellectual property right of Thermoheat, or if a third party makes any claim against the Contract Party in relation to those intellectual and industrial property rights, the Contract Party shall immediately notify Thermoheat of this. The Contract Party will grant all cooperation that may reasonably be required in order to lead to the fastest possible conclusion of the infringing activity or the dispute.

ARTICLE 12. DISPUTES AND APPLICABLE LAW

- 12.1. The law of the Netherlands applies exclusively to all obligations between Thermoheat and the Contract Party. The application of the UN Convention on Contracts for the International Sale of Products ("the Vienna Convention") is hereby excluded.
- 12.2. The competent court in Rotterdam has exclusive jurisdiction in any disputes stemming from or connected with these General Sale Conditions or the Agreements or indeed any other obligation between Thermoheat and the Contract Party.