

GENERAL TERMS AND CONDITIONS OF PURCHASE OF THERMOHEAT B.V., THERMOHEAT BEHEER B.V., THERMOHEAT HOLDING B.V.

CHAPTER I. GENERAL

ARTICLE 1. Definitions

- 1.1. General Terms and Conditions: these general terms and conditions of purchase of Thermoheat;
- 1.2. Article: an article of these General Terms and Conditions;
- 1.3. Professional errors: shortcomings, including mistakes, carelessness, negligence, omissions, incorrect advice that a skilled and careful Contracting Party should avoid under the given circumstances while taking normal care and using normal professional knowledge and while conducting business in a professional manner;
- 1.4. Contracting Party: each natural or legal person with whom Thermoheat enters or wishes to enter into an Agreement, selling or delivering goods or services to Thermoheat and any other natural or legal person with whom Thermoheat places an order and enters into negotiations;
- 1.5. Day: calendar day;
- 1.6. Services: any work to be performed by the Contracting Party for Thermoheat, either under an Agreement or otherwise;
- 1.7. Goods: all material objects and property rights to be delivered by the Contracting Party, either under an Agreement or otherwise;
- 1.8. Agreement: any and all agreements, including, but not limited to subcontracts, framework agreements and/or specific agreements and these General Terms and Conditions concluded between Thermoheat and a Contracting Party, as well as any other assignment given by Thermoheat to a Contracting Party, as well as any and all related acts and legal acts;
- 1.9. Client of Thermoheat: each client, customer or other business contact of Thermoheat who are (ultimately) interested in the delivery of Goods and/or Services by the Contracting Party to Thermoheat;
- 1.10. Party and Parties: Thermoheat and the Contracting Party, separately or jointly;
- 1.11. Staff of Thermoheat: the employees assigned by Thermoheat under the Agreement;
- 1.12. Staff of the Contracting Party: the staff members or auxiliary persons engaged by the Contracting Party and/or its subcontractor and/or its auxiliary person pursuant to an employment agreement or otherwise for the performance of the Agreement;
- 1.13. Thermoheat: the Thermoheat entity involved in the Agreement, being Thermoheat B.V., Thermoheat Beheer B.V., Thermoheat Holding B.V. and/or any and all undertakings belonging to the same group of companies, where the businesses affiliated with that Thermoheat entity may also rely on the rights to which that Thermoheat entity is entitled pursuant to the Agreement and/or these General Terms and Conditions;
- 1.14. Working day: calendar days, with the exception of weekends and official holidays within the meaning of Article 3, paragraphs 1 and 2, of the General Extension of Time Limits Act (Algemene Termijnenwet) on which the agreed Services are performed and/or Goods are delivered.

ARTICLE 2. Scope of Application

- 2.1. These General Terms and Conditions apply to any Agreement regarding the purchase of Goods and/or Services from the Contracting Party by Thermoheat, as well as any obligation, legal relationship and any other contact, including, but not limited to any and all current and future requests, quotations, offers, assignments, orders, confirmations, deliveries, collaborations, services and legal acts between the Parties.
- 2.2. These General Terms and Conditions also apply for Staff and other employees of Thermoheat and for third parties involved by Thermoheat in the performance of the Agreement.
- 2.3. The applicability of any general terms and conditions used by the Contracting Party, however described, is expressly rejected.
- 2.4. Stipulations varying from and/or amendments and/or additions to these General Terms and Conditions can only be agreed expressly and in writing by a representative of Thermoheat authorized to do so and only apply for the specific Agreement for which these are made. The General Terms and Conditions shall apply in full to any subsequent Agreement between Parties.
- 2.5. Where the Agreement differs as regards contents from the contents of these General Terms and Conditions, the contents of the Agreement shall prevail.
- 2.6. In the event of contravention between the Dutch text of these General Terms and Conditions and the translations thereof, the Dutch text shall prevail.

ARTICLE 3. Formation of the Agreement

- 3.1. An Agreement does not come into effect until an assignment has been confirmed or a quotation or offer has been accepted in writing by a representative authorized to do so on behalf of Thermoheat.
- 3.2. An Agreement concluded with a representative or an intermediary of Thermoheat will only be legally valid if and in so far the representative has a written power of attorney to that effect. Powers of attorney can be requested in writing and are also available for inspection at the office of Thermoheat.
- 3.3. Stipulations varying from and/or additions to an Agreement will only be valid if they are agreed on in writing with a representative of Thermoheat authorized to do so.

CHAPTER II. PERFORMANCE OF THE AGREEMENT

ARTICLE 4. Delivery of Goods

- 4.1. Agreed delivery terms constitute firm dates and strict deadlines. If the term is exceeded, Thermoheat will have the right to suspend the performance of its obligations arising from the Agreement without notice of default, all this without prejudice to the other rights to which Thermoheat is entitled pursuant to these General Terms and Conditions, the Agreement or the law.
- 4.2. Delivery and risk transfer by the Contracting Party will take place under the delivery condition stated in the purchase order, failing to do so the DDP (Delivered Duty Paid) delivery condition (Incoterms 2020) will apply.
- 4.3. Transfer of ownership will take place at the time of risk transfer.
- 4.4. The Contracting Party is not entitled to make partial deliveries. If, by way of written derogation from these General Terms and Conditions, partial deliveries have been agreed, for the purpose of application of these General Terms and Conditions the term "delivery" will include a partial delivery.
- 4.5. The term "delivery" also includes delivery of auxiliary materials and the relevant documents.
- 4.6. Return consignment will take place at the risk and expense of the Contracting Party.
- 4.7. The Contracting Party is responsible for the auxiliary materials, the Staff of the Contracting Party and/or third parties to be engaged in the fulfilment of its obligation and shall arrange for adequate insurance. The foregoing will apply all the more if the Contracting Party is responsible for the transport.
- 4.8. If Thermoheat requests for the delivery to be postponed, the Contracting Party shall store, secure and take out an insurance for the Goods destined for Thermoheat in a sound and recognizable manner, and shall take every measure to prevent any loss of quality until the Goods have been delivered. If the Contracting Party incurs extra costs due to the aforementioned storage of the Goods, Thermoheat and the Contracting Party shall hold prior consultations about the manner in which these costs are to be settled.
- 4.9. The Contracting Party shall warrant that the goods to be delivered to Thermoheat are free of rights or claims of third parties, in which regard it shall indemnify Thermoheat and hold Thermoheat harmless.
- 4.10. Obligations and performances on the part of the Contracting Party cannot be transferred to third parties.
- 4.11. A failure on the part of Thermoheat to perform its obligations does not constitute a ground to suspend the obligation or obligations to deliver or the obligation to perform the Services on the part of Contracting Party.

ARTICLE 5. Performance of Services

- 5.1. The Contracting Party shall perform the Services in a good, proper and skillful manner and shall deploy qualified staff of the Contracting Party, using proper materials. Such materials shall be: (i) appropriate for its designated purpose, (ii) in accordance with the applicable regulations and instructions of government bodies, government services and utility companies and (iii) comply with Thermoheat's orders and instructions.
- 5.2. Orders and instructions given by Thermoheat shall be followed at all times.
- 5.3. In the event of subcontracting, the Contracting Party will be prohibited to assign, to pledge or to transfer the ownership, under any title whatsoever, the amount included in the subcontracting sum due in social insurance contributions and income tax.

ARTICLE 6. Staff of the Contracting Party

- 6.1. The Staff of the Contracting Party engaged by the Contracting Party in the performance of an Agreement shall have the necessary skills, expertise and safety certificates.
- 6.2. If, in the opinion of Thermoheat, the Staff of the Contracting Party is not sufficiently qualified, Thermoheat is entitled to order the removal of this Staff of the Contracting Party and the Contracting Party is obliged to replace this Staff without delay, with due observance of the provisions of paragraph 1 of this Article.
- 6.3. The Contracting Party instructs the Staff of the Contracting Party involved in the performance of the work, in so far this work is carried out at Thermoheat, to comply with the safety regulations and company rules specified by Thermoheat. Thermoheat shall inform the Contracting Party in good time on these procedures and rules.
- 6.4. Thermoheat may claim that certificates of good conduct, copy VCA and other relevant documents of the Staff of the Contracting Party are submitted no later than three days prior to the start of the work at Thermoheat.
- 6.5. Thermoheat may subject the Staff of the Contracting Party to a security screening, in accordance with the customary rules applied by Thermoheat. The Contracting Party shall render its full cooperation to this security screening. On the basis of the outcome of such a security screening, Thermoheat may refuse the deployment of the staff member concerned in the performance of the Agreement without giving reasons and may demand a replacement.
- 6.6. Thermoheat has the right to refuse the deployment of Staff of the Contracting Party and to demand replacement in case Thermoheat has reasonable grounds to suspect that use of alcohol, drugs, medicines and/or other substances by the staff member concerned has or may have an effect on the performance and/or safety of the staff member concerned and/or the progress and/or the safety of the work in general.
- 6.7. In case a member of the Staff of the Contracting Party has medical complaints that may be associated with the Coronavirus the deployment of the staff member concerned is excluded and the Contracting Party is obliged to replace the staff member concerned without delay, with due observance of the provisions of paragraph 1 of this Article. Deployment of the staff member concerned is not permitted until a designated test has confirmed that the staff member is not infected with the Corona Virus. Where a person who shares a household with a member of the Staff of the Contracting Party has medical complaints that may be associated with the Coronavirus, deployment of the staff member concerned is excluded until a designated test has confirmed that the aforesaid person is not infected with the Corona virus. The Contracting Party shall replace the staff member concerned immediately.

ARTICLE 7. Replacement of Staff of the Contracting Party charged with the performance of Services.

- 7.1. The Contracting Party is only allowed to replace the Staff of the Contracting Party charged with the performance of Services as an exception and after obtaining Thermoheat's written permission.
- 7.2. Thermoheat may attach conditions to the permission to be granted, but will not refuse its permission on unreasonable grounds. The rates applicable for the original persons cannot be raised in the event of replacement.

- 7.3. Besides the cases referred to in article 6.2 of these General Terms and Conditions Thermoheat can at any time require the replacement of Staff of the Contracting Party charged with the performance of Services. The Contracting Party guarantees that it will comply with such request and will not charge a rate exceeding the rate set out in the Agreement for the person to be replaced.
- 7.4. In the event that Staff of the Contracting Party charged with the performance of the Agreement is replaced, the Contracting Party will make persons available who, in terms of expertise, education and experience, are at least equivalent to the persons to be replaced and who meet the requirements of articles 5 and 6.

ARTICLE 8. Services of third parties

- 8.1. In performing the Agreement, the Contracting Party is only entitled to transfer the performance, in whole or in part, to third parties or to have a part thereof carried out by a third party "on a sub-contract basis" after obtaining Thermoheat's written permission. Thermoheat may attach conditions to the permission to be granted, but will not withhold its permission on unreasonable grounds.
- 8.2. If, in the performance of the Agreement, the Contracting Party wishes to make use of an employee or of employees made available by a third party, the Contracting Party shall inform Thermoheat thereof in writing. When Thermoheat raises objections to the deployment of an employee or of employees made available by a third party, Thermoheat shall inform the Contracting Party thereof within a reasonable period of time.
- 8.3. The Contracting Party will at all times remain responsible and liable for fulfilling its obligations under the Agreement and its obligations as employer under tax and social insurance legislation.

ARTICLE 9. Obligations arising from laws and regulations and other regulations

- 9.1. The Contracting Party is deemed to be familiar with any and all statutory regulations and other regulations, conditions, standards and provisions, which either must or need not be complied with by Thermoheat in the performance of the Agreement.
- 9.2. The Contracting Party undertakes to comply with and to observe any and all statutory and other regulations, conditions, standards and provisions, including, but not limited to the regulations referred to in the preceding paragraph of this Article. The Contracting Party is NEN 4400 certified and warrants compliance with social insurance laws and tax laws, including, but not limited to the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act (*Wet Ketenaansprakelijkheid – Wka*), the Placement of Personnel by Intermediaries Act (*Wet allocatie arbeidskrachten door intermediairs – Waad*) and the Foreign Nationals (Employment) Act (*Wet Arbeid Vreemdelingen*) with respect to the persons to be deployed. The Contracting Party is responsible for paying any and all taxes, social insurance contributions and other statutory tax assessments in this regard. In this connection the Contracting Party shall only pay the related part of the invoices of its subcontractors, installers, suppliers and such like into G accounts, or, if such has been agreed between them, directly to the Social Insurance Implementing Agency (*Uitvoeringsinstansie Sociale Verzekering*) or the Collector of Taxes, and it shall ensure that the contractors and subcontractors, installers, suppliers and such like will pay their contractors and subcontractors, installers, suppliers and such like in the same manner.
- 9.3. With respect to Thermoheat, the Contracting Party warrants the correct compliance with the Sham Employment Arrangements Act (*Wet Aanpak Schijnconstructies*), more specifically, with Articles 7:616a through 7:616f of the Dutch Civil Code and is responsible for the obligations set by the law with respect to the Contracting Party, being a correct compliance with an applicable collective bargaining agreement (CAO) or payment of the (statutory prescribed) wages, keeping the payroll records updated, which makes it possible to check the amounts of the wages paid out, expense allowances, holiday pay and the contributions paid. The Contracting Party shall also render its cooperation in verifying the compliance with these obligations at the request of the competent authorities and/or Thermoheat. Furthermore, the Contracting Party shall impose this obligation on its contractors and subcontractors and in case of (suspicion of) malpractices, it will make an effort to have these problems solved by its contractors and subcontractors or to rectify these problems. In case of clear malpractices of underpayment, the Contracting Party will make an effort to cause underpayment problems to be solved. Upon the sign received from an employed staff member or from an engaged subcontractor about underpayment, the Contracting Party shall take action with respect to the lower link in question in the chain for the purpose of payment of the wages due.
- 9.4. The Contracting Party is bound to comply with the obligations arising from the applicable collective bargaining agreement (CAO), if any.
- 9.5. The Contracting Party shall arrange for any permits which may be required from the Contracting Party in connection with the performance of the Agreement, the rendering of Services and/or the delivery of Goods.
- 9.6. Every three months the Contracting Party shall furnish the industrial insurance board (if and where applicable) and the collector of direct taxes with a copy of the reports concerning its payment practices.
- 9.7. The Contracting Party is obliged to submit the timesheet expressed in man-hours and the statements and the (wage) records with the names and the registration numbers of all the Staff Members of the Contracting Party or third parties, together with – where prescribed by law – copies of valid identity cards and work permits.
- 9.8. At Thermoheat's request, the Contracting Party shall provide a timesheet expressed in man-days relating to the performance of the Agreement, the rendering of Services and/or the delivery of Goods. The register expressed in man-days shall include the names of all the Staff Members of the Contracting Party to be engaged by the Contracting Party, as well as a timesheet expressed in man-hours.
- 9.9. At the Contracting Party's request, Thermoheat shall submit the following:
 - a. its Dutch VAT number (*BTW*);
 - b. its registration number in the Commercial Register kept by the Chamber of Commerce;
 - c. where applicable, its registration number with the mutual insurance association;
 - d. a copy of a permit to establish a business, to the extent required;
 - e. a turnover tax number and tax withholding number;
 - f. a valid registration with the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekering – UWV*) involved, in so far the agency provides such a certificate;
 - g. a statement concerning the payment of income tax and national insurance contributions as referred to in the directive or directives contained in the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act (*Wet Ketenaansprakelijkheid – Wka*);
 - h. the original G-account agreement.

ARTICLE 10. Payment of social insurance contributions and income tax deducted by the employer

- 10.1. Thermoheat has the right to pay to the Contracting Party the social insurance contributions, the turnover tax and/or income tax which are payable by the Contracting Party as regards the performance of the Agreement by the Contracting Party or the hired employee respectively, but for which Thermoheat is jointly and severally liable pursuant to the Collection of State Taxes Act 1990 (*Invoeringswet 1990*), by deposit into its blocked bank account within the meaning of the Collection of State Taxes Act 1990.
- 10.2. Furthermore, Thermoheat has the right to withhold the social insurance contributions, turnover tax and/or income tax as referred to in the preceding paragraph, from the subcontracting amount and to pay these directly to the Tax and Customs Office / Central Administration if Thermoheat is reasonably of the opinion that such is necessary in order to limit the risk of the joint and several liability referred to hereinabove in the preceding paragraph.
- 10.3. If Thermoheat and/or the Contracting Party are reasonably of the opinion that the amount in social insurance contributions and/or income tax payable by the Contracting Party will be different from the percentage determined in the Agreement, that percentage can be changed accordingly by agreement.
- 10.4. If Thermoheat applies the rights described in paragraph 1 and/or paragraph 2 of this article, it will be discharged in respect of the Contracting Party for the amounts referred to in these paragraphs.

ARTICLE 11. Auxiliary materials, tools and other materials

- 11.1. Auxiliary materials, tools and other materials used by the Contracting Party in the performance of an Agreement will be submitted to Thermoheat for approval should Thermoheat so demand.
- 11.2. The auxiliary materials, personal protection equipment ("PPE"), tools and other materials made available by Thermoheat for the performance of an Agreement remain the property of Thermoheat and will be returned to Thermoheat without delay should Thermoheat so demand and/or upon termination of the Agreement. The Contracting Party shall mark these auxiliary materials, PPE, tools and other materials in a recognizable manner as the property of Thermoheat. The Contracting Party is not allowed to remove or to change any indication on the auxiliary materials, PPE, tools and other materials pertaining to the ownership rights of Thermoheat.
- 11.3. Storage and maintenance of the auxiliary materials, PPE, tools and other materials referred to in the preceding paragraph are at the risk and expense of the Contracting Party. The Contracting Party is obliged to keep the specified auxiliary materials in a good state and to take out an insurance covering any risks – whereby Thermoheat will be specified as the insured party – as long as it is acting as the holder for Thermoheat with respect to these auxiliary materials. The Contracting Party is liable for damage to or caused by the specified auxiliary materials, PPE, tools and other materials and indemnifies Thermoheat against claims by third parties.

ARTICLE 12. Warranties of the Contracting Party

- 12.1. The Contracting Party warrants that the Goods or Services to be delivered conform to the Agreement. This warranty implies at least that:
 - a. the Goods and Services shall be in compliance with the description, quantity, quality, packaging and colour, and that they have all the properties which have been promised and/or are incorporated in the Agreement;
 - b. the Goods are free from defects in design, materials and manufacturing;
 - c. the Goods shall be new and free of rights and claims of third parties;
 - d. the Goods or Services shall be suitable for the purpose for which the order has been placed or for which the Agreement has been concluded;
 - e. Services shall be performed in a skillful manner and uninterrupted;
 - f. the Goods or Services shall be in compliance with the requirements set by or pursuant to the law and/or the applicable rules of self-regulation, including the requirements in the area of quality, health, surrounding area, safety, environment and complaints;
 - g. The Goods shall be provided with a specification of the producer or of the person/party who is placing the items on the market. Upon first request the Contracting party shall provide the relevant documents of origin and conformity statements.
- 12.2. If it turns out that the Goods delivered – irrespective of the results of previous inspection – do not meet the provisions of article 12.1 of these General Terms and Conditions, the Contracting Party shall repair, replace the Goods or supplement what is lacking at its own risk and expense and at Thermoheat's option immediately on request, unless Thermoheat prefers to terminate the Agreement in accordance with the provisions of these General Terms and Conditions and all this without prejudice to Thermoheat's other rights arising from these General Terms and Conditions, the Agreement and the law (including the right to claim compensation). All the costs to be incurred in this connection (including the costs involved in repairs and disassembly) will be borne by the Contracting Party.

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- 12.3. In urgent situations and if, after consulting the Contracting Party, it is reasonably to be expected that the Contracting Party will fail to comply with its warranty obligations, Thermoheat has the right to carry out the repair or replacement itself or have the repair or replacement carried out by third parties at the expense of the Contracting Party. However, this does not release the Contracting Party from its obligations arising from the Agreement.
- 12.4. As soon as the Contracting Party knows or ought to know that it will fail to perform the Agreement, it is obliged to inform Thermoheat thereof in writing without delay, stating reasons. If such is the case, Thermoheat is entitled to exercise the rights to which it is entitled pursuant to these General Terms and Conditions, the Agreement and the law in case of failure on the part of the Contracting Party.
- 12.5. Unless explicitly otherwise agreed in the (written) purchase order, the warranty referred to in Article 12.1 of these General Terms and Conditions will subsist for a period of twenty-four (24) months after the Goods have been delivered as referred to in article 4.2 of these General terms and Conditions or after the Services have been performed.
- 12.6. Following the acceptance of the repair, replacement or addition carried out as referred to in article 12.2 of these General Terms and Conditions, a new warranty period will commence as set forth in article 12.5 of these General Terms and Conditions.

ARTICLE 13. Inspection and acceptance

- 13.1. Goods and Services delivered or to be delivered may at any time be submitted or cause to be submitted to an inspection or be examined or cause to be examined by Thermoheat. All this for the purpose of determining conformity with the Agreement and the provisions referred to in article 12.1 of these General Terms and Conditions. The Contracting Party is obliged to render its full cooperation thereto.
- 13.2. If Thermoheat is of the opinion that the results of the services provided and/or the Goods delivered are insufficient, the results of the Services and/or Goods delivered will not be accepted. If such is the case, Chapter V applies.

CHAPTER III. RELATIONSHIP BETWEEN PARTIES AND SUPERVISION

ARTICLE 14. Progress report

- 14.1. The Contracting Party shall submit a report about the progress of the performance of the Agreement as often and in the manner as stipulated in the Agreement or as Thermoheat deems necessary.

ARTICLE 15. Contact persons

- 15.1. Both Parties will appoint a contact person, who will maintain the contacts about the performance of the Agreement. The Parties shall inform one another in writing about the person who they have appointed as contact person.

ARTICLE 16. Manner in which notice is given

- 16.1. Notices of the Parties pursuant to the Agreement or the General Terms and Conditions will be given in writing.
- 16.2. Oral statements, promises or agreements will have no legal effect, unless confirmed in writing by a representative authorized to do so.
- 16.3. All documents to be submitted by the Parties in the context of the Agreement will be drawn up in the Dutch and/or English language. The Contracting Party will arrange for an official translation of documents drawn up in other languages at its own expense.

ARTICLE 17. Confidentiality

- 17.1. The Contracting Party is obliged to preserve the strictest confidentiality of all the information originating from Thermoheat (ideas, knowledge, commercial secrets, data, procedures, substances, samples and such like included therein) which comes to its knowledge in the context of (the performance of) the Agreement and which is considered by Thermoheat as confidential or of which the Contracting Party reasonably can suspect that it is of a confidential nature ("Confidential Information"). The Contracting Party will restrict the access to Confidential Information to the persons who need this information for (the performance of) the Agreement. Subject to Thermoheat's prior written permission, the Contracting Party shall not divulge or disclose Confidential Information or any part thereof to any person, firm, company or other entity and the Contracting Party shall not use the Confidential Information or any part thereof unless the information is used for the performance of the Agreement. Thermoheat reserves the right to require the Contracting Party to sign a confidentiality agreement (NDA).
- 17.2. The obligation of confidentiality as referred to in article 17.1 does not apply for information of which the Contracting Party can show by means of written evidence that this information:

- was already generally known and available at the time of disclosure or has become generally known and available thereafter, other than by acts or omissions on the part of the Contracting Party, or;
 - has been developed independently by the Contracting Party without making any use of information disclosed by Thermoheat, or;
 - must be disclosed by the Contracting Party pursuant to the law, any regulation or rule of a body approved by the authorities, or a binding and non-appealable court decision or another government body. In that case, the Contracting Party shall timely inform Thermoheat thereof in writing so that, in consultation with Thermoheat, the extent of the disclosure by the Contracting Party can be limited to what is strictly necessary.
- 17.3. The Contracting Party is obliged to impose the same obligation as referred to in article 17.1 to the Staff of the Contracting Party or third parties engaged by the Contracting Party for the performance of the Agreement. The Contracting Party warrants that these persons of the Staff of the Contracting Party do not act in contravention of the obligation of confidentiality.
- 17.4. The Contracting Party does not publish anything about the Agreement in promotional texts and publications and will only use Thermoheat's name as reference with Thermoheat's permission to do so.
- 17.5. The Contracting Party shall make available to Thermoheat all information (written documents, computer files, et cetera) of which it has custody in the context of the performance of the Agreement within 10 Working Days after termination of the work in question.
- 17.6. The Contracting Party will incur an immediately payable penalty of EUR 5,000.- for each breach, to be increased by EUR 1,000.- for each day that the breach continues, such without prejudice to Thermoheat's right to claim compensation pursuant to the law.

CHAPTER IV. FINANCIAL STIPULATIONS

ARTICLE 18. Prices and rates

- 18.1. Prices and rates are expressed in Euro and exclusive of turnover tax.
- 18.2. The costs incurred for offers will be borne by the Contracting Party.
- 18.3. Price increases, including price increases in cost-determining factors, which have occurred after the formation of the Agreement will be borne by the Contracting Party.

ARTICLE 19. Contract variations

- 19.1. If as a result of additional requirements or changed insights on the part of Thermoheat, or if the statutory regulations relevant to the performances to be delivered have been amended, the performances which are to be delivered by the Contracting Party under the Agreement are demonstrably increased or extended, it will constitute contract extras, which qualify for remuneration. Contract extras do not include additional work or altered views which the Contracting Party ought to have foreseen at the time the Agreement was concluded. If a Party is of the opinion that there are contract extras, it shall notify the other Party as soon as possible.
- 19.2. The Contracting Party will not start to carry out additional work until having received written instructions to do so from Thermoheat, after the Contracting Party has submitted a written offer as regards the extent of the anticipated contract extras and the related duration and costs. In respect of the additional work to be carried out by the Contracting Party, the stipulations and conditions of the Agreement apply, including the rates and any reductions, in so far these are not changed by the further written instructions given.
- 19.3. If as a result of the changed insights on the part of Thermoheat or if the statutory regulations relevant for the performances to be delivered have been amended, the performances which are to be delivered by the Contracting Party under the Agreement are demonstrably eased or reduced, it will constitute contract reductions which qualify for set-off. If a Party is of the opinion that there are contract reductions, it shall notify the other Party as soon as possible. If a fixed price has been agreed, the Parties will by agreement determine the amount of the contract reductions which will be set off against the price to be paid.

ARTICLE 20. Invoicing

- 20.1. Invoicing will take place within 30 days of acceptance of the Services performed and/or the Goods delivered by Thermoheat, but no later than after the lapse of one year from the date of delivery of the Goods or the performance of the Services. Invoices which are received after the aforementioned time limit will not be accepted.
- 20.2. Invoices will be sent by electronic means (crediteuren@thermoheat.nl) or in writing, and will at least state the date and the number of the Agreement, the amount in Dutch VAT and – if available – a copy of the acceptance of the Services performed and/or the Goods delivered.
- 20.3. If it has been agreed that payment will take place according to actual costs, the Contracting Party shall specify the invoice and shall invoice in the form specified, where applicable, by Thermoheat. In the invoice the Contracting Party shall state the number and the dates of the days or hours actually and necessarily spent, and the Contracting Party shall give a brief description of the work carried out, as well as a description of the travel and subsistence expenses, if any, if these expenses are not included in the daily and hourly rates.
- 20.4. Contract extras shall be invoiced separately by the Contracting Party after completion of the extra work, and the acceptance thereof by Thermoheat. The nature and the extent of the extra work to be carried out shall be expressly stated in the invoices and specified on the basis of authentic documents.

ARTICLE 21. Payment

- 21.1. Payment by Thermoheat shall be made within 60 days of receipt of the correctly addressed and complete invoice in compliance with the standards of article 20.
- 21.2. Payment of invoices made by Thermoheat does in no way constitute a waiver of rights.
- 21.3. Thermoheat is at all times entitled to set-off claims of the Contracting Party against Thermoheat with claims which Thermoheat has, for whatever reason and of whatever nature, against the Contracting Party.
- 21.4. If the Contracting Party fails to comply or to comply fully with any obligation pursuant to these General Terms and Conditions, the Agreement or the law, Thermoheat is, among other things, entitled to suspend the payment obligation to the Contracting Party, all this without prejudice to the other rights to which Thermoheat is entitled under these General Terms and Conditions, the Agreement and the law.
- 21.5. If the payment term is exceeded by Thermoheat, the Contracting Party shall first give the Contracting Party notice of default in a valid manner by giving a reasonable time for compliance before the default will commence. The statutory commercial interest as referred to in Article 6:119a of the Dutch Civil Code does not apply.
- 21.6. If a payment term is exceeded by Thermoheat or in case of non-payment of an invoice on the basis of a probable incorrectness of the contents thereof or faultiness of the invoiced Services and/or Goods, the Contracting Party will not be entitled to suspend its work or to terminate its work.

ARTICLE 22. Credit guarantee

- 22.1. If it has been agreed that for the performance of the Agreement Thermoheat will make a payment or payments for Services and/or Goods which have not been delivered yet, it may require that a credit guarantee is issued "on demand" to Thermoheat by a credit institution in the amount or amounts to be paid. No charge is made to Thermoheat for the guarantee. If Services and/or Goods are not accepted within the agreed period due to any

failure on the part of the Contracting Party, the Contracting Party is payable the statutory interest on the advance payment for the time the failure continues.

- 22.2. The credit guarantee "on demand" shall be issued by a credit institution accepted by Thermoheat.

CHAPTER V. FAILURE TO PERFORM, TERMINATION AND CANCELLATION

ARTICLE 23. Risk of delay

- 23.1. If there is a risk that the progress of the work will be delayed, the Contracting Party shall promptly notify Thermoheat, stating the cause and the consequences thereof. And the Contracting Party shall also propose measures to prevent any further delay.
- 23.2. Thermoheat shall inform within 14 days of receipt of the notification referred to in the preceding paragraph whether or not it agrees to the proposed measures and the specified consequences. Agreement does not imply that Thermoheat recognizes the cause of the risk of delay and does not affect any other rights or claims to which Thermoheat is entitled under the Agreement.

ARTICLE 24. Penalty

- 24.1. If the Services and/or Goods have not been performed and/or delivered within the agreed or extended period in a manner conforming with the Agreement, the Contracting Party will owe Thermoheat an immediately due and payable penalty of 0.1% of the total or maximum price involved in the Agreement for each day that the breach continues up to a maximum of 10% thereof. If performance has become permanently impossible for reasons other than force majeure, the penalty will be immediately due and payable in full.

- 24.2. Thermoheat is entitled to the penalty, without prejudice to all other rights or claims, including, but not limited to: claiming specific performance of the Agreement, included therein, the performance of Services and/or the delivery of Goods, and;
- the right to claim compensation.

ARTICLE 25. Liability

- 25.1. The Contracting Party is liable for any and all damage and/or loss, including consequential loss or damage, resulting in loss or damage and trading loss suffered by Thermoheat as a result of each failure to comply with the obligations of the Contracting Party and/or as a result of any other act or omission on the part of the Contracting Party or Staff of the Contracting Party or by third parties engaged by the Contracting Party relating to the Agreement, all this without prejudice to the other rights to which Thermoheat is entitled pursuant to the law.
- 25.2. The Contracting Party shall take out an adequate liability insurance as referred to in Article 25.1 and makes the insurance policy available for inspection by Thermoheat, if it so requires.

ARTICLE 26. Indemnification

- 26.1. The other party indemnifies Thermoheat against any and all claims of third parties and the ensuing costs and damage and/or loss relating to the performance of the Agreement.

ARTICLE 27. Force Majeure

- 27.1. In the event of force majeure, Thermoheat is entitled to suspend its obligations, in whole or in part, or to consider the Agreement terminated without judicial intervention, and without being obliged to pay to the Contracting Party any compensation for damages, costs and interest.

- 27.2. The term "force majeure" on the part of the Contracting Party does not include in any event: lack of Staff on the part of the Contracting Party, strike, illness of the Contracting Party's Staff, late supply or unsuitability of the goods necessary for the performance of the work, liquidity or solvency problems on the part of the Contracting Party or failure to perform on the part of third parties engaged by it.

ARTICLE 28. Termination and cancellation

- 28.1. If the Contracting Party fails to comply with any obligation under the Agreement, Thermoheat is entitled to consider the Agreement terminated without notice of default being required, without prejudice to the right of Thermoheat to full compensation of costs, damages, interest and any and all other rights pursuant to the law.
- 28.2. Without any notice or notice of default being required, Thermoheat may terminate the Agreement extrajudicially with immediate effect by way of a registered letter, in the event that:

- The Contracting Party applies for a (provisional) moratorium or a (provisional) moratorium is granted to it;
- The Contracting Party files a petition for bankruptcy or is declared in a state of bankruptcy;
- The business of the Contracting Party is wound up;
- The Contracting Party discontinues its business;
- An attachment has been levied on a significant part of the assets of the Contracting Party;
- The Contracting Party transfers the business in whole or in part;
- Discrimination, child labour or inadequate working conditions exist within the business operations of the Contracting Party;
- A court or an arbitral tribunal prohibits Thermoheat from further performance of the Agreement, or;
- The Contracting Party can no longer be otherwise considered able to comply with the obligations arising from the Agreement.

- 28.3. Thermoheat may terminate the Agreement at any time by way of a registered letter. In that case a settlement will take place between Thermoheat and the Contracting Party on the basis of the Services performed and/or the Goods delivered by the Contracting Party in respect of the execution of the order in question and of costs reasonably incurred and of the obligations already reasonably assumed for the execution of the order in the future. Thermoheat does not need to indemnify the Contracting Party in any other way against the consequences of the cancellation of the Agreement.

CHAPTER VI. MISCELLANEOUS

ARTICLE 29. Intellectual property rights

- 29.1. Any and all intellectual property rights which can and may be exercised – whenever and wherever – with respect to the results of the Services performed and/or Goods delivered by the Contracting Party are vested in Thermoheat. These rights will be transferred by the Contracting Party to Thermoheat pursuant to the Agreement at the time they arise, which transfer is accepted by Thermoheat if this situation arises.

- 29.2. In so far the results as referred to in the first paragraph come about by making use of already existing intellectual property rights to which Thermoheat is not entitled, the Contracting Party grants a nonexclusive right of use to Thermoheat for an indefinite period. In that case the Contracting Party warrants to grant the aforementioned right of use.

- 29.3. In so far a further deed were to be required for the transfer of the rights, as referred to in the first paragraph, the Contracting Party authorizes Thermoheat irrevocably if the situation arises to draw up such a deed and to sign this deed on behalf of the Contracting Party, without prejudice to the obligation of the Contracting Party to render its cooperation to the transfer of these rights at the first request of Thermoheat, without being allowed to set any further conditions. In so far as necessary, the Contracting Party hereby irrevocably authorizes Thermoheat to cause the transfer of these intellectual property rights to be listed in the relevant registers.

- 29.4. If there is a difference of opinion between the Parties about intellectual property rights with respect to the results of the Services performed and/or the Goods delivered, it will be assumed, subject to proof of the contrary, that those rights are vested in Thermoheat. In all cases Thermoheat may take advantage of the use of the outcome of the results intended in the Agreement.

- 29.5. The Contracting Party may not make available the Services performed and/or the Goods delivered in any form whatsoever to third parties, nor may it provide third parties with any information thereof, unless Thermoheat has given express permission to do so. Thermoheat may attach conditions to this permission.

- 29.6. The Contracting Party indemnifies Thermoheat against claims of third parties relating to a (possible) infringement of intellectual property rights of those third parties, similar claims as regards knowledge, illegal competition and such like included therein. The Contracting Party undertakes to take measures at its own expense which may contribute to prevent interruption and delay and to limit the extra costs to be incurred and/or the damage or loss to be sustained as a result of the infringements in question.

- 29.7. Without prejudice to the aforementioned provisions, Thermoheat may terminate the Agreement in whole or in part, extrajudicially, in writing if third parties hold Thermoheat liable for infringement of intellectual property rights. Thermoheat will not use its right to terminate the Agreement until holding prior consultations with the Contracting Party.

ARTICLE 30. Transfer of rights and obligations arising from the Agreement

- 30.1. The Contracting Party is not entitled to assign the rights and obligations, or any part thereof, arising from the Agreement to third parties without the written permission of Thermoheat. The permission will not be refused without reasonable grounds. Conditions may be attached to the permission.

ARTICLE 31. Insurance

- 31.1. The Contracting Party has taken out an adequate insurance and will maintain an adequate insurance for the following risks:

- professional liability (risks arising from Professional errors);
- business liability (including liability for damage caused to persons or things that are the property of Thermoheat);
- loss of and damage to machinery and equipment (including damage caused by fire and theft), including the things that are the property of Thermoheat.

- 31.2. Upon request, the Contracting Party will submit a certified insurance certificate or a statement of the insurer concerning the existence of these insurances and the fact that the insurance premium has been paid. The Contracting Party will not terminate or amend the insurance contract without prior written permission of Thermoheat. The Contracting Party is not entitled to change the sum insured to the detriment of Thermoheat, unless prior permission to do so has been obtained in writing from Thermoheat. The insurance premiums payable by the Contracting Party are considered to be included in the agreed prices and rates.

ARTICLE 32. Contact with Clients of Thermoheat

- 32.1. Subject to Thermoheat's prior written permission, the Contracting Party refrains from having direct contact with Clients of Thermoheat delivery of Goods and Services.

- 32.2. During the performance of the Agreement and a period of two years after termination thereof the Contracting Party shall not perform any services by order or for the benefit of a Client of Thermoheat, nor submit a quotation or offer to such client.

- 32.3. For each breach of article 32.2 the Contracting Party will incur an immediately payable penalty of EUR 50,000.-, to be increased by EUR 5,000.- for each day that the breach continues, such without prejudice to Thermoheat's right to claim compensation pursuant to the law.

ARTICLE 33. Takeover of staff, bribery, conflict of interests

- 33.1. The Parties will not employ any employees of the other Party or negotiate with those employees about taking up employment during the performance of the Agreement and within one year after termination thereof, without the permission of the other Party. This permission will not be withheld without reasonable grounds.

- 33.2. The Parties will not offer to each other, nor to third parties, nor will they request, accept or being promised from each other or from third parties, for themselves or any other Party, any gift, reward, compensation or benefit of whatever nature which may be explained as illegal practices. Such practices may give cause to terminate the Agreement, in whole or in part.



GENERAL TERMS AND CONDITIONS OF PURCHASE OF THERMOHEAT B.V., THERMOHEAT BEHEER B.V., THERMOHEAT HOLDING B.V.

- 33.3. If it becomes apparent that a person of the Staff of Thermoheat occupies an additional position, either paid or otherwise, with the Contracting Party or has occupied at the time negotiations were held about the formation of the Agreement, without Thermoheat being informed thereon before the conclusion of the Agreement, Thermoheat may terminate the Agreement without notice of default with immediate effect without being obliged to pay any compensation.
- 33.4. The Contracting Party will not involve any persons in the performance of the Agreement who have been employed by Thermoheat during a period of two years prior to the work, unless Thermoheat has given its permission.
- 33.5. The Contracting Party states and warrants that, with respect to the Agreement, neither the Contracting Party, nor one or more of its managerial staff, representatives, subordinates and/or non-subordinates or legal persons associated with the Contracting Party and their managerial staff, subordinates or advisers are or have been involved in consultations or agreements with other enterprises about:
- price-setting and/or
 - the manner in which offers are made and/or
 - division of work,
- in a manner which could be in violation of the provisions of the Dutch and/or EU competition rules, except in so far this is necessary in connection with the performance of the Agreement by a combination or by use of one or more subcontractors.

ARTICLE 34. Nullity

- 33.1. If one of the stipulations of these general terms and conditions is nullified, rendered void or proves to be nonbinding in another way, it will not have any consequences for the validity of the other stipulations of these general terms and conditions and the parties will in consultation agree on a valid provision which will be as much as possible similar in content to the stipulation in question.

ARTICLE 35. Continuous obligations

- 34.1. Obligations which according to their nature are destined to continue also after the termination of the Agreement, will retain their effect. These obligations include: indemnity, indemnification against infringement of intellectual property rights, confidentiality, dispute resolution and applicable law.

ARTICLE 36. Disputes and applicable law

- 35.1. Any disputes that may arise from or in connection with the legal relationship between Thermoheat and the Contracting Party, the Agreement, these General Terms and Conditions, each offer, quotation and order or obligation to and/or with Thermoheat will be settled exclusively by the competent court in Rotterdam, the Netherlands.
- 35.2. The legal relationship between Thermoheat and the Contracting Party is exclusively governed by Dutch law. The applicability of the United Nations Convention on Contract for the International Sale of Goods (Vienna Sales Convention, 1980) is excluded.