



The Heat Tracing Specialists®

For More Than
60 Years
1954 - 2014

GENERAL TERMS AND CONDITIONS OF SALE OF THERMON EUROPE B.V.

1. GENERAL

1.1. All sales and deliveries of goods and/or services (collectively "**Goods**") made by us ("**Supplier**") to you (the "**Purchaser**", together the "**Parties**") are subject to the following general sales terms and conditions (the sales agreement and these general terms and conditions ("**Conditions**") together referred to as the "**Agreement**"). Any other conditions that deviate from these Conditions, even if we do not explicitly disagree to them, including but not limited to the Purchaser's general or special conditions of purchase, shall only apply if an authorized representative of Thermon has expressly agreed to such in writing.

1.2. Any condition in these general terms stating that communication is "**in writing**" also encompasses a corresponding communication by electronic-mail.

2. QUOTATIONS AND ACCEPTANCE OF ORDERS

2.1. Quotations are valid for a period of thirty (30) calendar days from the date of issue or as otherwise specified in the quotation. Quotations are subject to change without notice. Quotations include domestic standard packing and standard marking costs. Prices given in any quotation are applicable to that specific quotation only. A quotation is not an offer to sell. Quotations and offers are not binding. Any quotation may be withdrawn or revised by Supplier at any time prior to dispatch.

2.2. Any (change) order may be accepted or rejected for whatever reason by Supplier at its sole discretion. Orders and amendments to orders shall only be binding upon Thermon if we have accepted or confirmed such in writing.

3. PRICE AND PAYMENT

3.1. Our prices are exclusive of VAT. For orders up to € 115,- a handling charge of €30,- shall be payable.

3.2. Payments have to be received without deduction, compensation or set off, no later than 30 days after the invoice date. However, Thermon may, at its discretion, accept cash with order or cash on delivery. Payment for goods (installation) services shall be made against monthly payments.

3.3. If a payment has not been made by the due date, the Purchaser is automatically in default without notice and an interest charge equal to 3% per month or part thereof shall be due from that moment.

3.4. All costs that have to be incurred in order to collect the amount of the invoice, both judicial and extrajudicial, including collection charges, the last-mentioned being not less than 15% of the amount of the outstanding invoice(s) and with a minimum of €140,- shall be for the defaulting Purchaser's account.

3.5. Unless expressly agreed otherwise, prices payable for the goods shall be excluding all design and engineering, change orders, insurances, extended warranties, crating, storage, documentation, delivery, inspection and testing, and all other supplies and services as may be necessary for the performance of the goods to be supplied. Unless expressly agreed otherwise, prices payable for the supply of goods shall be excluding all taxes, duties, levies, imposts, charges, fees, approvals, permits, legalization charges, clearances, licenses for compliance with laws, currency fluctuations, bank guarantees and the like, applicable at all locations where the supply of goods shall be performed and fulfilled.

4. INCREASES

4.1. If any price increase occurs, such as an increase of taxes, levies, import duties, prices of materials, wages or social securities and tax costs prior to delivery of the goods Thermon is to deliver, Thermon shall have the right to charge on these adjustments, even if it has been agreed that the price will be fixed, without the right of the Purchaser to cancel orders placed.

4.2. If the prices are invoiced in Euro's and prior to delivery of the goods a change occurs in the exchange rate in force on Euronext vis-à-vis the Euro for the currency of the country where we purchase certain goods required for the provision of the goods under the Agreement, we shall be entitled to charge on

this change, even if it has been agreed with the Purchaser that the price will be fixed, without the right of the Purchaser to cancel orders placed. This clause applies vice-versa if the invoice is in a currency other than Euro's.

5. DELIVERY

5.1. The delivery time is an approximate time only and is given subject to interim amendment to the order being made and in case of circumstances occurring beyond our control, including but not limited to failure of our subsuppliers to meet their delivery obligations. Failure to meet the delivery time shall neither entitle the Purchaser to change the terms of payment, nor to a discount or compensation, nor to withdraw the order.

5.2. In the event of circumstances beyond our control, execution of the order shall be suspended until after these circumstances have terminated unless we notify the Purchaser in writing within 90 days of such a circumstance occurring that we are canceling the order, in so far as it has not been executed. We are not obliged to pay compensation for any damage and/or loss.

5.3. If part of an order is ready, we may, at our discretion, deliver this part or wait until the full order is ready. If part deliveries are made in accordance with the foregoing, and in the case of deliveries of successive parts of an order under an Agreement, each delivery shall be deemed to constitute a separate Agreement with the Purchaser which cannot be revoked once those goods have been delivered.

5.4. All deliveries by us shall be Ex Works in accordance with the most recent Incoterms as issued by the International Chamber of Commerce, the contents of which Purchaser is fully aware of and are considered incorporated into these terms by this reference thereto. Goods which have not been taken delivery of per the scheduled delivery date, will be kept in storage by Supplier for a maximum of 30 days, at a cost to the Purchaser of €5,- per pallet per week, or for a longer period as mutually agreed and for a minimum of the costs as stated in this clause.

6. FORCE MAJEURE

6.1. We are not liable when the order is not, not properly and/or not timely fulfilled as a result of circumstances beyond our control, in the broadest sense of the word.

6.2. Circumstances beyond our control are in any case understood to mean staff sickness, interruption of operations, faults in material, lack of raw materials, government orders or mandatory law, failure of third parties to deliver, transport difficulties, public disorder, strikes, lockouts, measures stemming from mobilization and other contingencies, even if these events occur with the Suppliers with whom we ourselves have placed an order in connection with the order placed with us by the Purchaser.

7. TITLE AND RISK

7.1. Title to the goods shall not pass to the Purchaser until the Purchaser has made full payment of all debts emanating from our relations with the Purchaser on whatever grounds. The Purchaser may not pledge or transfer the ownership to a third party. In this context, the acceptance of a bill of exchange or other commercial paper shall not hold as payment. However, after delivery and prior to the transfer of title, the goods shall be for the Purchaser's account and risk.

7.2. In the event of non-payment of any sum due, suspension of payment, an application for a moratorium on payment, insolvency or liquidation of the Purchaser's affairs, in the event of the Purchaser's death and, if the Purchaser is a company, if it is wound up, we shall have the right, without a notice of default and without the need for any court order, to dissolve any Agreement made with the Purchaser and to claim back as our property any goods that may have been delivered but have not yet been paid in full, offsetting what has already been paid to us, but without prejudice to our rights to demand compensation for any loss or damage we may suffer.

8. LIABILITY, WARRANTY AND CLAIMS

8.1. Complaints relating to damage to and defects in a shipment received by the Purchaser, which damage or defects are visible externally at the time of receipt, shall be submitted to us in writing within 3 (three) working days of receipt and shall also be recorded on the waybill. Failure to do so shall



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extinguish any right of complaint or claim for damages and/or for repair, in respect thereto.

8.2. Complaints relating to the composition of a shipment received by the Purchaser or to damage that is not visible at the time of receipt shall be submitted to us in writing within 3 (three) working days after discovery. Failure to do so shall extinguish any right of complaint in respect thereto.

8.3. During the warranty period stated in clause 8.4, we will remedy defects free of charge that are a result of faults in the material or of construction, at our sole discretion by repairing the goods, by supplying replacement goods at the point of use of Purchaser, or by taking back the goods in question in return for a refund of the original purchase price. We shall not be bound by any further obligation or remedy.

8.4. We warrant to the Purchaser for a period of the earlier of twelve (12) months from being put into operation or eighteen (18) months from delivery, whichever earlier, that the goods manufactured by Supplier shall: (a) be free from liens, encumbrances and defects of title, design, manufacture, workmanship and materials; (b) be new and of the best quality and safe and fit for the intended purpose in so far as expressed in the Agreement; (c) conform to the specifications and meet the performance requirements expressly agreed upon; and (d) comply with applicable laws, regulations, (inter)national and industry codes and standards. No other warranty or guarantee is provided, whether express or implied.

8.5. The warranty in clause 8.4. will not apply to any goods with respect to which there has been, without us being responsible for, (a) installation, inspection, testing, operation or maintenance that is improper or non-compliant with Supplier's guidelines and instructions, (b) no full inspection and testing, including a "Megger-test" and resistance test, to the extent the goods relate to electrical cables, both after the cable installation / before insulation and after the insulation; (c) modifications, attachments, repairs, removals or replacements performed without Supplier's written approval, (d) use for purposes other than that for which they were designed, (e) unusual mechanical, physical or electrical stress, or (f) normal wear and tear, or (g) latent or hidden defects arising or discovered after expiration of the warranty period.

8.6. A complaint shall at no time entitle the Purchaser to rescind or annul the Agreement concluded with the Purchaser. The goods to which the complaint relates shall be held at our disposal.

8.7. All descriptions, technical specifications, drawings, illustrations and information relating to weight and dimensions furnished by us are approximate only. Illustrations of goods provide no guarantee as regards quality, suitability, type or class of the goods to be delivered, but give only a general picture of the goods.

8.8. Supplier is liable for damages insofar these are due to non-compliance with the requirements stated in the Agreement, unless such is due to force majeure and / or not attributable to us, which liability shall in no event exceed the direct damages up to 100% of to the Agreement value. In no event shall Supplier be liable for any special, extra-ordinary, incidental, punitive, indirect or consequential damages whatsoever arising from or related to any performance under the Agreement. The foregoing does not apply in case of our willful misconduct or gross negligence.

8.0. Unjustified claims regarding defects or other damages shall entitle us to have all our related internal and external costs and expenses reimbursed by Purchaser, for which costs and expenses Purchaser indemnifies Supplier.

9. INDEMNIFICATION

9.1. The Purchaser shall indemnify us for any and all claims from third parties for compensation for losses that might occur as a result of or in connection with the goods delivered by us.

9.2. If all or part of an order has to be executed to the Purchaser's specification, the Purchaser shall warrant us that such specification shall not infringe or result in us infringing any industrial property rights or any other third-party rights and Purchaser shall indemnify and hold us harmless from any claims made against us in this respect thereto.

10. CERTIFICATION

10.1. We work to the ISO 9001 standard for the design of heating systems and the manufacture of components for these systems. In addition, we work closely

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together with manufacturers whose products we (re)sell. We endeavor to purchase as much as possible from manufacturers who have officially gained registration to ISO 9000 level. However, as this is not (yet) the case with every manufacturer, some of the products we sell on direct may have been manufactured outside ISO standards. In such cases it is the Purchaser's responsibility to inquire of us the exact situation with regard to certain products to be sold on direct to the Purchaser.

11. COMPLIANCE

11.1. Purchaser is aware and shall comply in all respects with all applicable ordinances, statutes, laws, rules and regulations of any governmental and supranational authority having jurisdiction with respect and in relation to his performance under the Agreement, except where contrary to US laws, on subjects including but not limited to, unfair competition, bribery, export control, quality management or health, safety and environment risks.

11.2. Purchaser warrants that it will never export, re-export, transship, resell or otherwise dispose of any of the goods supplied under the Agreement in the event that such goods are manufactured in the USA or incorporate USA technology and, as such, subject to USA laws and export control regulations, to any person or entity (including end-user) or for any final use or destination, if there is reason to believe that it will result, directly or indirectly, in the disposition of goods in violation of USA laws and export control regulations.

12. INTELLECTUAL PROPERTY RIGHTS

12.1. We herewith reserves any industrial and intellectual property rights and/or copyrights pertaining to cost estimates, drawings and other documents (hereinafter referred to as „Documents“). The Documents shall not be made accessible to third parties without the Supplier's prior consent and shall, upon request, be returned without undue delay to the Supplier if the Agreement is not awarded to the Supplier.

13. NO THIRD PARTY RIGHTS

13.1. Nothing expressed or referred in the Agreement shall be construed to give any person or legal entity, other than the parties being signatory to the Agreement, any right, remedy or claim under or with respect to the Agreement or its provisions, and the Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the Parties and their successors and permitted assigns.

14. TERMINATION

14.1. Without prejudice to any of its other rights we may terminate the Agreement or suspend further deliveries to the Purchaser in the event of the Purchaser failing to make due payment for any goods or if any distress execution or other legal process shall be levied upon the Purchaser or if the Purchaser becomes insolvent or being a body corporate has passed a resolution for voluntary winding-up or is subject to a winding-up order of the court or has had a receiver appointed.

14.2. Thermon is entitled during two weeks after the Agreement has been concluded, to dissolve the Agreement if there, at Supplier's discretion, appears to be a lack of creditworthiness of the Purchaser, without being obliged to pay any compensation to the Purchaser.

15. LAW

15.1. Any and all disputes between us and the Purchaser are governed exclusively under the laws of the Netherlands and shall be subject to the sole jurisdiction of the competent court in the Hague, or, at our discretion, by arbitration according to the regulations of the Netherlands Arbitration Institute in Rotterdam or of the International Chamber of Commerce, both with place of arbitration in the Hague.