

GENERAL TERMS AND CONDITIONS

ThermSys GmbH

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I) Validity of the general terms and conditions

- 1) All services and deliveries of ThermSys GmbH are made exclusively on the basis of the specific contract in conjunction with the following terms and conditions (hereinafter referred to as GTC). Divergent terms and conditions of our suppliers and customers are not binding for us even if we do not expressly contradict them or we perform services and deliveries without reservation in the knowledge of conflicting or deviating from these terms and conditions.
- 2) The terms and conditions of ThermSys GmbH apply only to entrepreneurs within the meaning of § 310 Abs. 1 BGB.
- 3) Contract language is German or English.

II) Offers, scope of services and conclusion of contract

- 1) Our contract offers are non-binding.
- 2) Only the order confirmation of ThermSys GmbH is decisive for the scope of the contractually owed service. If the delivery item is to correspond to special purposes of the customer, then this purpose and the corresponding requirements, which the delivery item shall meet, must be explicitly and completely designated by the customer in the order and confirmed by ThermSys GmbH.
- 3) The order or orders based on our offer will only become effective upon our written confirmation. Verbal declarations require a written confirmation in order to be valid.
- 4) Partial deliveries are permitted.

III) Documents/documentation

- 1) With the exception of documents intended for commissioning or advertising purposes, we reserve the proprietary rights and copyrights for all other illustrations, drawings, calculations, technical information and other documents. The documents may not be copied, reproduced, forwarded or made accessible to third parties without our express written permission.
- 2) All illustrations, drawings, calculations, technical information, other documents and weight and measurement data provided by us are based on approximate information and are not binding. The changes to the technical concept underlying the offer are changeable, as long as the performance and quality of the offered delivery item are not affected.

IV) Terms of Delivery

- 1) Unless otherwise agreed, applies to all deliveries, the delivery plus the current shipping and handling flat rate including standard packaging. Incidentally, our offer is based on the following conditions of INCOTERMS 2010, as amended, published by the International Chamber of Commerce:
- 2) Unless otherwise agreed by contract, transport and all other packaging shall not be taken back in accordance with the packaging regulations. The customer is obliged to arrange for disposal of the packaging at his own expense.

V) Delivery time and delay

- 1) Delivery times are only binding if they have been promised in writing.
- 2) Insofar as compliance with the delivery obligation is dependent on the customer's obligations, this presupposes the timely and orderly fulfillment of the customer's obligations. In particular, the order must be completely clarified, all approvals given and all documents, payments and securities to be provided by the customer must be received in time by ThermSys GmbH.
- 3) The delivery time is met if the shipment has left the factory within the agreed period.
- 4) If the delivery and service are delayed for the reasons stated above, due to force majeure or for reasons that are not under the control of ThermSys GmbH, the specified or contractually agreed delivery time or any other service shall be tacitly extended by the reasonable amount necessary to eliminate this reason. ThermSys GmbH informs the client immediately about the reason and duration of the delay. If such causes last for a period of more than three months, the contract may be terminated by either party. Insofar as the listed reasons lead to the impossibility of delivery, both contractual parties are entitled to terminate the contract. If only parts of the contract are affected by the hindrance or delay, the contractual partners are also entitled to terminate these parts.
- 5) The customer bears the additional costs of interruption and delay caused by ThermSys GmbH.
- 6) If the shipment is delayed for reasons for which the supplier is not responsible, he is entitled to store the delivery item at the risk of the customer and to demand compensation for the costs incurred.
- 7) If it is up to the customer to provide the means of transport for the delivery and if he does not provide this in the contractually stipulated time, ThermSys GmbH shall be released from its obligation to deliver by storing the delivery items at the expense and risk of the customer. The warehouse receipt or the carrier take-over certificate shall be deemed to be evidence of the contractual delivery.

VI) Prices and terms of payment

- 1) Unless stipulated otherwise in the contract, the agreed price plus the shipping and handling flat rate valid at that time, including standard packaging, plus the value added tax valid on the day of invoicing. Special transports, such as express services, and special packaging will be charged separately. We reserve the right to change our prices appropriately if cost reductions or cost increases occur after the conclusion of the contract, in particular due to collective bargaining agreements or material price changes. We will prove this to the customer on request.
- 2) If only part of the agreed quantity is accepted for on-call or forward orders within the agreed period of time, we shall be entitled to either calculate the price valid for this lot size for the delivered part or to deliver and charge the quantity not yet requested.
- 3) A payment shall only be deemed made if the amount has been irrevocably and without deduction of further costs in the agreed freely convertible currency credited to us by a first-class bank in Germany at the latest on the due date.
- 4) Unless otherwise agreed by contract, the invoice price is due net without deductions within 30 days from the date of invoice. In case of late payment, interest of 8 percentage points above the respective base rate will be charged. The assertion of

higher damages is not excluded. The customers are expressly entitled to prove that damage has not occurred or is substantially lower than we claimed.

- 5) We grant a discount of 2% for payments within 14 days from the invoice date. Repairs are basically not discountable.
- 6) If the customer is in delay with his obligations and this delays the delivery or service, the payments shall be made as if the delay had not occurred.
- 7) The customer can only offset counterclaims accepted by ThermSys GmbH or legally established. The customer is only entitled to exercise a right of retention if the counterclaim is based on the same contractual relationship.

VII) Retention of title

- 1) ThermSys GmbH reserves ownership of the delivery and performance until all claims against the customer arising from the business relationship have been fulfilled. In the event of breaches of duty by the customer, in particular default in payment, ThermSys GmbH shall be entitled to rescind the contract and to demand the return of the delivery item after an unsuccessful expiry of a period of grace set for the customer; the legal cases of dispensability of the deadline remain unaffected. In the case of a justified request for surrender, the goods subject to retention of title shall be returned to us at the risk of the purchaser and at his expense.
- 2) If the validity of the retention of title is connected with other special requirements or formalities in the country of the customer, the customer is obliged to ensure their fulfillment at their own expense or to cooperate in a security interest corresponding to the regulations of the country.
- 3) The customer is entitled to dispose of the delivery only in the ordinary course of business. Other dispositions, in particular the pledging of the delivery subject to retention of title, are inadmissible.

In the event of seizure or other dispositions by third parties, the customer is obliged to notify ThermSys GmbH immediately and to provide it with all information and documents necessary to safeguard its rights. Third parties are to be informed about the property rights of ThermSys GmbH.

- 4) Insofar as the customer resells the delivery subject to retention of title, irrespective of whether the sale takes place without or after processing, mixing or combination, he assigns the resulting claim to ThermSys GmbH. ThermSys GmbH accepts the assignment. The assignment is made in proportion to the value of the delivery (the final invoice amount including VAT is decisive). The customer is entitled to collect the claims from the resale independently as long as he meets his contractual obligations. The customer is obligated to communicate all measures or circumstances completely and immediately which endanger the existence of the security rights.
- 5) The processing of the conditional delivery takes place for ThermSys GmbH as the manufacturer, without these resulting obligations. Insofar as any processing, mixing and / or combination of the conditional delivery with other goods not belonging to ThermSys GmbH takes place, ThermSys GmbH is co-owner of the newly manufactured item in proportion to the value of the conditional delivery to the remaining goods. Time of processing, mixing and / or connection to. Insofar as the purchaser acquires sole ownership of the newly manufactured object, it is agreed that the purchaser grants ThermSys GmbH co-ownership of the new object in proportion to the value of the conditional delivery and stores this co-ownership share for ThermSys GmbH free of charge.
- 6) If the value of this security exceeds the amount of our claim by more than 20%, we will release the security of our choice at the customer's request.

VIII) Commissioning

Unless expressly agreed, the costs of commissioning the goods delivered by us are not part of our offer

IX) Liability for defects

- 1) ThermSys GmbH is liable for special features of the contractually agreed delivery and service only after appropriate written assurance.
- 2) Warranty in the legal sense are only available if issued by ThermSys GmbH by express written declaration.
- 3) ThermSys GmbH warrants for defects in the delivery at its own discretion if they act by repair or replacement. In the case of remedy of the defect, we are obliged to bear all expenses necessary for the purpose of remedy the defect, unless these are increased by the fact that the goods were moved to a place other than the place of performance. If ThermSys GmbH replaces parts or entire delivery items, these become the property of ThermSys GmbH and remain in their possession.
- 4) The prerequisite for the warranty for defects is that the object of delivery was demonstrably rendered unusable or unusually impaired in its usefulness as a result of a circumstance prior to the transfer of risk, in particular due to faulty design, poor material or defective execution. The claims for defects do not relate to natural wear and tear, nor to damages which arise after the transfer of risk as a result of faulty, careless or improper treatment or use, excessive use or electrical influences which are not required under the contract. Incorrect commissioning or repair and maintenance work by unauthorized persons or dealers or improper storage after the transfer of risk shall exclude claims for defects. The usual wear on the delivery item or its components is not a defect and does not give rise to any warranty claims, even if this leads to the failure of the delivery item. If heating elements and in exceptional cases thermocouples, also in connection with their applications, are unusable or greatly impaired in their usefulness, it is assumed that the impairment is due to wear, unless this assumption is unavoidable with the nature of the object or the type of impairment. Increased wear occurs when the products are operated at the limit of their specifications. Information about this will be provided from case to case in written form by our technical staff already in the offer stage. The wear can occur due to the design and depending on the respective use within the warranty period and does not lead to material defect liability.
- 5) A warranty for procedural functions assumes the ThermSys GmbH only, if this was additionally agreed.
- 6) The claims for defects expire one year after the transfer of risk. Insofar as remedy of defects or replacement delivery has taken place, the warranty period for the repaired or replaced parts begins with the renewed transfer of risk.

7) The period of limitation in the case of a delivery recourse according to §§ 478, 479 BGB remains unaffected; it is five years, calculated from the delivery of the defective item. The delivery recourse is excluded if the customer fails to inform his customers about the usual wear duration of thermocouples, heating conductors or their applications and thus becomes liable to pay compensation to his customer.

8) If the supplementary performance fails, then the customer is entitled, at his discretion, to demand rescission or reduction. His right to claim damages instead of the performance is not affected by this.

9) The purchaser must report in writing a manifest defect within two weeks after receipt of the delivery. For timely delivery of the notice of defects to ThermSys GmbH is sufficient. Insofar as no timely complaint is made, the assertion of claims for defects is excluded.

In the case of a "hidden" defect, the client must notify this defect in writing to ThermSys GmbH within a period of one week from discovery of the defect. It is sufficient to meet the deadline the timely dispatch of the complaint.

X) Commercial Property Rights

1) ThermSys GmbH is liable to the customer for the infringement of industrial property rights of third parties within the scope of the following regulation. The fulfillment of this obligation requires that ThermSys GmbH be informed immediately about claims arising from property rights. Should third parties assert legitimate claims arising from property rights that prevent the customer from using the delivery item, ThermSys GmbH will either, at its own expense and at our discretion:

- give the customer the right to use the delivery item or
 - make the delivery item free of property rights or
 - take back the delivery item against reimbursement of the purchase price.
- 2) We assume no liability for the fact that the application of the delivery item does not interfere with the property rights of third parties.
- 3) ThermSys GmbH is not liable for the infringement of third-party property rights for a delivery item that is manufactured or developed according to drawings, developments or other information provided by the customer. The customer must indemnify ThermSys GmbH from third party claims in this case.
- 4) The customer acquires no claims for the use of the available industrial property rights, which concern the interaction of the delivery item with other items.

XI) Limitation of liability

- The liability for breaches of duty of ThermSys GmbH including our representatives or vicarious agents is limited to grossly negligent or intentional breaches of duty, unless a defect was fraudulently concealed or a guarantee was accepted.
- Basically, the liability is limited to the contract-typical foreseeable damages. Further or other claims of the customer, in particular consequential damages, are excluded. This does not apply in the case of intent, gross negligence, breaches of contract which are material to the contract or in case of injury to life, body or health.
- Liability under the Product Liability Act remains unaffected by the above provisions.
- ThermSys GmbH is not liable for breaches of duty resulting from services rendered on the basis of submissions or audited drawings, templates, calculations and the like. However, ThermSys GmbH has the obligation to inform the client – as far as can be seen - about the impossibility of technical realization of the templates.

XII) Contract orientation by the customer

Properly ordered and delivered items are generally not taken back. If the customer cancels, then in the technical delivery business cancellation costs of 25% of the net sales price plus any costs for the processing are calculated. The customer shall be entitled to prove that no damage or impairment has occurred or is substantially lower than calculated.

XIII) Assembling, Commissioning

If an assembly (and commissioning) of the delivery items is an integral part of the contract, the following conditions apply, whereby our commissioning price is also based on all the following conditions and these costs are borne by the customer:

- Appropriate and appropriate storage at or near the place of commissioning of the delivery items in such a way that the delivery items are protected against theft and any damage or other negative influences is assumed. Any part lost or damaged during storage will be repaired and / or replaced at the expense of the customer.
- Preparatory work in accordance with the timely specifications announced by us must be carried out on time and completed. The assembly site is to be provided to us unhindered on the agreed date. Our assembly personnel should only be requested when all preparatory work has been completed satisfactorily
- The delivery items provided for assembly and / or commissioning must be available at the agreed time and in perfect condition.

In the event that one or more of these conditions are not met or are not fulfilled properly or in time, or if we have to interrupt our commissioning and assembly work with subsequent test runs for reasons that are not attributable to us, the time of completion of these services will be extended accordingly and any additional costs incurred as a result of this shall be borne by the customer.

XIV) Export Control

The validity of our offer and any resulting order is, if applicable, subject to approval of required export or import licenses of the German authorities and / or other eligible international or foreign authorities. The customer expressly confirms that he knows the relevant guidelines or that he will be aware of them. Furthermore, the customer confirms that he will not carry out any business activities with products and / or documentation and / or software contrary to these valid guidelines. Insofar as an end-user confirmation and / or import license is required, the customer will obtain such documents at our request.

XV) Privacy statement

We take the protection of your personal data very seriously. We use your personal data confidentially and according to the legitimate regulations. With this privacy statement we inform you according to the new data protection regulation (DS-GVO) about the use of your data and rights.

1.) Who is responsible for the data-processing and who can I contact?

Responsible office: Fa. ThermSys GmbH
Lange Hecke 8
D-63796 Kahl am Main
Tel.: +49 (0) 6188/99517-0
Mail: info@thermsys.de

General Manager: Siegbert Jais

Contact details of the data protection officer

Fa. ThermSys GmbH
Data protection officer
Lange Hecke 8
D- 63796 Kahl am Main
Mail: datenschutz@thermsys.de

Competent authority:

Bayrisches Landesamt für
Datenschutzsicht (BayLDA)
Promenade 27
91522 Ansbach
Tel.: +49 (0) 981/53-1300
E-Mail: poststelle@lda.bayern.de

2.) What sources and data do we use?

We process personal data, which we get when you visit our webpage within an existing or coming work relationship as well as fair- and other contacts, by participating in a promotion campaign or if you get in touch with us through or social media canals.

Data we use within this could meet following data categories:

- Contact information (e.g. name, address, phone number, e-mail address)
- Business information (e.g. title, department, company name)
- Other business information (e.g. experience with our products, return details)
- Data for the paying process (bank accounts, billing address)
- Shipping information (delivery address incl. contact person)
- Content related information from communication through social media (e.g. comments)
- Applicant data according to online submitted application documents
- Other information about the work relationship which were raised and saved

3.) What do we process the data for (Purpose of the processing) and based on what legal?

Subject of the business is: Manufacturing, distribution, trading, design and validation of varieties of electrical heaters and related products.

The DS-GVO demands a legal basis for every processing of personal data. The legal base, on which basis we process your data is, that

- you gave us the permission
- it is necessary for the fulfillment of the contractual agreement with you
- the processing is necessary to complete the legal requirements
- the processing in our legitimate interest is and there are no disadvantages for the rights and freedom of the parties concerned
- Fa. ThermSys GmbH needs some personal information for the transaction of the Work relationship. While doing so we act according to the base line of data minimization and therefore only use the data which follows the existing legislation. This could contain:
 - data for the settlement of the concluded contract
 - details, which were collected in the work relationship, e.g. for the use of our products
 - data which was generated while promotional activities or fairs
 - data collected by using our contact form
 - statistic data, which was recorded by visiting our webpage
 - data which were given during a job application

4.) Who gets your data?

The particular employee within our company, which are involved in the in supervision of our working relations, have access to the raised and saved private data.

In terms of the working relations data gets transferred by the presence of the necessary regulations. If it is necessary for the completion of the contract to consult an extern service provider, is the passing on of information also subject to the regulations of the DS-GVO, especially Art. DS-GVO "Auftragsverarbeiter".

Fa. ThermSys does not sell any personal information to any other extern places.

5.) Is data getting send into a third country or an international organization?

Data we get directly from you within working relations will not be send into a country outside the EU or the EWR without your approval, if it's not needed to fulfill your contract or required by law.

For visitors our webpage following the prescribed privacy statement can be send to the named company for the use of Cookies, Google Analytics and personal data and therefore could also be send into a third country. Therefore, please use the particular privacy statements and clarification for the safety of the transactions of your data to the servers of the provider.

6.) How long is your data getting saved for?

We process and save your personal data, as long as it is necessary for the fulfilling of our contractual and legal obligations. If this data is not being used any more it gets deleted.

If the data isn't touched by that, it gets deleted as soon as the reason why they got raised disappears.

7.) What data protection laws do you have?

Every affected person has

- o the right to information 15 DS-GVO
- o the right to correction 17 DS-GVO
- o the right on erasure 17 DS-GVO
- o the right to constrain the processing 18 DS-GVO
- o the right on contradiction 21 DS-GVO
- o the right on data transmission 20 DS-GVO

With the right to information and the right on erasure there are restrictions going by §§34 and 35 BDSG new version. Also, there is a right on complaint at the responsible data protection authority (art. 77 DS-GVO connected to §19 BDSG new version)

It is always possible for you to withdraw your permission given for the use of your personal data. This is also possible for the withdraw of the declaration of consent, which we got before the 25. May 2018. Please consider that this withdraw only works in the future. Use of the data before the withdraw is not affected.

8.) Is it compulsory to give you provision of my data?

According to our business conditions you only have to provide us with the data we need for the reasoning, execution and finishing of our work relationship or if it is legally committed to it.

Without this data it is possible that we can't provide or can only partly provide our services. It is also possible that we have to reject or drop an order.

9.) How far is there atomized decision making in an individual case?

For reasoning and execution, we don't use an atomized decision making according to art.22 DS-GVO.

10.) How far is the data used for profiling?

We do not profile according to art. 4 pas. DS-GVO.

11.) Our adaptations on the privacy statement

We take our right to always change the privacy statement within our autonomy. The recent state can be found in the footer of this statement. Every change is operative as soon as the new Privacy statement gets published, this affects the access and use of this webpage.

12.) Contact us

If you have any question about our Privacy Policy or about the use of personal stored data don't hesitate to contact us.

XVI) Final Provisions

1) If the customer is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction is the registered office of ThermSys GmbH. ThermSys GmbH is also entitled to sue at the customer's headquarters

2) The law of the Federal Republic of Germany applies exclusively, to the exclusion of the laws on the international purchase of movable property (UN sales law), even if the customer has his place of business abroad.

3) Unless stipulated otherwise in the contract, the place of business of ThermSys GmbH is the place of performance.

4) If any provision of the contract or the terms and conditions be or become invalid, this shall not affect the validity of the remainder of the agreement

5) Assignment of rights or transfer of obligations from the contract requires the prior written consent

6) Assurances, side agreements, changes and additions to the contract must be made in writing, whereby the written form requirement can only be waived by express written declaration for the individual case.

Status: Jan 2019

ThermSys GmbH

General Manager:
Siegbert Jais

Seat of the company:
Kahl am Main HRB 13215

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