

## GENERAL TERMS AND CONDITIONS OF PURCHASE

Thermoplan AG Weggis

### 1. General provisions

- 1.1 In accepting our order the supplier is agreeing to the following terms, and all terms specifically stated on our order forms. The order shall be deemed to have been accepted if not rejected in writing within 5 working days of the order being received.
- 1.2 To be valid, all agreements and obligations require the written form.
- 1.3 Other differing conditions shall only be binding if the supplier explicitly draws attention to them in writing and if we explicitly accept them in writing.
- 1.4 Any modification of products previously provided as samples, or the subject of earlier deliveries, shall require our written approval. Where approval has not been given, any such changes shall entitle us to withdraw from the order or to waive delivery.
- 1.5 Drawings provided or approved by us, as well as sample parts we have signed off in writing, shall be binding on the performance of the order.

### 2. Prices

- 2.1 Unless otherwise agreed in writing, the prices shall be deemed to be firm prices and shall, subject to the same proviso, include all incidental costs such as packaging, freight and insurance etc. costs.

### 3. Delivery

- 3.1 Delivery shall be on the supplier's behalf, unless otherwise agreed in the order.
- 3.2 The delivery quantity must exactly match the order quantity, unless otherwise agreed in the order.
- 3.3 The delivery shall be due on the agreed delivery date at the place of destination. The entrepreneur shall automatically be in default should he fail to comply with the agreed dates and deadlines.
- 3.4 Partial deliveries and early deliveries shall only be permitted by prior agreement.
- 3.5 In the event of late delivery for reasons for which we are not responsible, we may assert compensation of 5% per week or part thereof based on the contract price of the order affected by the delay.

### 4. Acceptance inspection and notices of defects

- 4.1 The supplier shall be obliged to inspect the consignment, or have it inspected, at his own expense. Mandatory inspection shall only be dispensed with if so agreed. We shall not be under an obligation to inspect the consignment. Acceptance of the consignment shall not constitute approval, Art. 201 and/or Art. 367 OR (Obligationsrecht - Swiss Code of Obligations).
- 4.2 The time limit for claims shall be the same as the warranty period.

### 5. Warranty and liability

- 5.1 The supplier shall accept full liability on his own behalf and that of his sub-suppliers for the absence of defects, i.e. for delivery absolutely in accordance with the order, notably that the contractual deliverable shall not exhibit any defects prejudicial to its value or fitness for purpose, that it possesses the warranted properties and is consistent with the prescribed performance and specifications. The supplier shall also warrant that the contractual deliverable is unreservedly suitable for its intended purpose.
- 5.2 Unless otherwise agreed in writing, the warranty period shall be 12 months. It shall commence upon the successful use of the merchandise and, where the supply is not immediately processed or put into operation, only after further processing or successful

commissioning, and shall terminate no later than 36 months after delivery.

- 5.3 Our warranty claims shall be for rectification, mitigation and compensation for loss or damage, including consequential loss or damage. Obligatory rectification shall require the supplier to remedy the defective equipment installed domestically and abroad at his own expense, or supply us free of charge with components and parts that are free of defects, with the labour costs incurred in remedying the supplier's defects also being for the supplier's account. In urgent cases, or should the supplier be in default, we shall be entitled to have the defective equipment installed domestically and abroad remedied at the supplier's expense (replacement of components, parts and labour costs) and to invoice him for it.
- 5.4 The supplier shall be liable for replacement deliveries and remedial work and original deliveries alike, with the warranty period for the former commencing again from the beginning.

### 6. Product damage

- 6.1 Should a claim arising from product liability be asserted against us, the supplier shall be obliged to indemnify us against such claims, irrespective of the basis of our liability, if and insofar as the damage has been caused by a faulty supply by the supplier.

### 7. Waiver and withdrawal

- 7.1 We shall be entitled to monitor the progress of work in the supplier's factory without thereby giving grounds for our own liability.
- 7.2 Should it be apparent even before delivery is due that the supplier will fail to meet the delivery date or that the supply will not be fit for purpose, we may set the supplier a short deadline for remedial action, accompanied by the threat that we shall waive delivery or withdraw from the contract, Art. 107 OR.

### 8. Confidentiality

- 8.1 All information, drawings, tools etc. provided by us are our property and are to be treated in confidence as business secrets. Products manufactured in accordance with our information or with our tools may not be used by the supplier himself, nor offered or supplied to third parties. Drawings, tools or models provided by us, or to the production of which we have contributed financially, are to be surrendered to us without compensation upon first request, subject to written agreements to the contrary.

### 9. Place of performance

- 9.1 The place of performance for the delivery shall be the place the goods are received, as defined by us. Should there be no such place, performance shall be due at our company headquarters. The place of performance for payment shall be our company headquarters.

### 10. Applicable law, place of jurisdiction

- 10.1 These general terms and conditions of purchase shall be subject to Swiss law.
- 10.2 The place of jurisdiction for Thermoplan AG and the supplier shall be the Canton of Lucerne (Switzerland).

Weggis, August 2013