Thermoplan AG
Thermoplan-Platz 1
CH-6353 Weggis
CHE-105.740.286 VAT number

Tel. +41 41 392 12 00
www.thermoplan.ch
thermoplan@thermoplan.ch

GENERAL TERMS AND CONDITIONS (T&C)
of Thermoplan AG Weggis

1. Scope of application
These T&C are an integral part of all contracts between Thermoplan AG (hereinafter referred to as Thermoplan) and their distributors and direct customers (hereinafter referred to as Purchasers) who order machines, spare parts, cleaning agents or other products. Purchasers are exclusively business clients with a customer number who order the products within the scope of their business activity. By ordering a product, the Purchaser accepts any and all provisions of these T&C. The Purchaser's T&C shall not apply even if Thermoplan does not explicitly object to them. Any deviations to these T&C shall be subject to an explicit written agreement between the parties. Thermoplan reserves the right to alter or supplement the T&C at any time without prior notice.

2. Offers and conclusion of the contract
Any and all offers are not binding and shall only become binding upon an official confirmation to the Purchaser by Thermoplan. This confirmation is described in the contract. The Purchaser shall be liable for the correctness of the information they provide regarding machines, figures, dimensions, etc.

3. Credit check
The customer shall note that, upon receiving an order, Thermoplan shall run a credit check on the customer and may gather data and information on the customer for this purpose without their express consent. The provisions of the Swiss data protection law will be taken into account. Should the credit check lead to any reservations against the customer, Thermoplan expressly reserves the right to change the conditions of the order, not to accept the order or to withdraw from the contract. This judgement shall be made at Thermoplan's discretion.

4. Prices
The prices are listed in Swiss Francs (CHF), net, excluding transport, duties, taxes and the like, and excluding delivery charges and packaging. The prices may be changed by Thermoplan at any time and without prior notice. They shall not be binding until confirmation has been given in accordance with the above-mentioned Section 2.

5. Payment conditions
The payment conditions of existing agreements between Thermoplan and the respective Purchaser shall apply with regards to orders. Unless otherwise agreed upon, the following shall apply: Thermoplan shall deliver the products after advance payment or other security for the payment has been provided.

Thermoplan shall be free to deliver on account. In this case, the conditions of the reservation of ownership (Section 6) are to be observed. The invoice shall be sent together with the delivery of the order. The Purchaser is to pay the purchasing price in full and without any deductions within the indicated term of payment after the invoice date. The Purchaser shall bear the transfer charges for the payment (including bank charges). In the event of late or partial payment, Thermoplan shall have the option of adhering to or withdrawing from the contract. In both cases, Thermoplan is entitled to demand compensation for damages. Should Thermoplan adhere to the contract, Thermoplan is entitled to charge default interest amounting to 5% p.a. without prior warning.

Any claims that the Purchaser may have against Thermoplan cannot be offset against the purchase price claim (Art. 126 of the Swiss Code of Obligations).

Any claims made by the Purchaser regarding a guarantee or notice of defects shall not exonerate the Purchaser from their duty of payment.

6. Reservation of ownership

Thermoplan shall remain the owner of the delivered products until the Purchaser has made the payment in full according to the contract. In the case of business relationships in Switzerland, the Purchaser hereby authorises Thermoplan to register the contract in the reservation of ownership register from the moment the contract is entered into, in accordance with Art. 715 of the Swiss Civil Code at the expense of the Purchaser. The Purchaser must notify Thermoplan of any change of residence/business address within 7 days of said change. Should they fail to do so, this will result in a penalty for non-performance amounting to 10,000.00 CHF.

In international business relationships, the Purchaser hereby authorises Thermoplan to proceed in accordance with the laws of the country in which the products are delivered from the moment the contract is entered into (Art. 103 Private International Law Act).

Whilst the reservation of ownership is in place, the Purchaser may not dispose of the delivered products. They may not sell, rent out or pawn the products. Furthermore, the Purchaser undertakes to handle the delivered products with care, to pay attention to the instructions for use provided by Thermoplan and to take out insurance against theft, fire and water damage for the replacement value at their own expense. The Purchaser is to carry out maintenance work and inspections in good time and at their own expense.

Thermoplan is entitled to exercise its right of ownership by taking back the delivered products should the agreed payment conditions not be met. In return, Thermoplan is to refund the Purchaser for any payments made towards the purchasing price prior to this moment. The Purchaser has no right of retention to the object of purchase.

To this effect, Thermoplan shall be expressly authorised by the Purchaser to take back the products (or have them collected). The associated expenses and costs shall be borne by the Purchaser.

7. Delivery conditions and delivery periods

In the case of orders, the delivery conditions and delivery periods of the existing agreements between Thermoplan and the respective Purchaser shall apply. Unless otherwise agreed, the following shall apply: Any delivery periods and dates stated by Thermoplan are approximate and shall not be binding. In the event of a delayed delivery, Thermoplan shall notify the Purchaser immediately. Any claims for late delivery are excluded to the extent permitted by law. The delivery period depends on the details of the order such as the required delivery and shipping documents. Thermoplan shall reserve the right to make partial deliveries. The transport of the goods includ-ing taxes, duties and the like shall be paid by the Purchaser.

Thermoplan shall deliver exclusively Ex Works in accordance with Incoterms 2010 (7th edition). The transfer of costs and risks to the Purchaser shall therefore take place with the provisioning of the packaged goods at Thermoplan's business address. The Purchaser shall be responsible for loading, transport (from Thermoplan to the destination) and the necessary insurance.

In case of any delay in delivery or performance due to force majeure and events which may complicate or prevent the delivery (including subsequently occurring problems in procuring materials, delay in delivery of substantial materials, lacking means of transportation, impossibility of transport, strike, lockout, staff shortage, breakdowns, such as fire or energy disruptions, regulatory orders, such as currency measures, changes of the trading policy and customs formalities and all other circumstances which may prevent (partially) any delivery by Thermoplan without fault), Thermoplan shall have the right to suspend the delivery for the duration of the disruption plus a reasonable period which is necessary to implement appropriate measures. This also applies if any delays occur in delivery caused by suppliers or due to pre-existing delays. If in such a case the unchanged execution of the contract shall become unreasonable, Thermoplan or the Purchaser may terminate the contract in writing. Any claims for damages shall be excluded to the extent permitted by law.

8. Technical data

Technical data, such as technical descriptions and illustrations, are not binding. Thermoplan may alter these at any time as a result of any technical improvements.

9. Place of performance for obligations, dispatch, transport costs, transfer of risk

Regarding the place of performance for obligations, dispatch, transport costs and transfer of risk, the existing conditions between Thermoplan and the respective Purchaser shall apply to any orders. Unless otherwise agreed, the following shall apply: The place of fulfilment of the performance by Thermoplan as well as the payment by the Purchaser shall be exclusively the Thermoplan headquarters in accordance with the extract from the commercial register, i.e., Weggis (canton Lucerne/Switzerland). The risk of accidental loss and accidental damage of the goods is transferred to the Purchaser upon preparation of the packaged goods for dispatch at Thermoplan's headquarters, i.e., Weggis (canton Lucerne/Switzerland). If the delivery is postponed at the Purchaser's request, the goods shall be stored at the risk of the Purchaser as of the day the goods are ready for delivery.

10. Notice of defects

Upon receipt, the Purchaser shall check the whole delivery as to its completeness, quality and any defects. Any defects shall be communicated to Thermoplan within three working days upon receipt of the goods. If the three-day period passes without notice, the delivery shall be deemed as being accepted, unless there are defects that were not recognisable upon routine inspection. The Purchaser is to notify Thermoplan of any defects that they may find within three working days of their discovery. If the three-day period passes without notice, the delivery shall be deemed to have been accepted.

Any notice of defects shall be made in writing, including detailed indication as to the asserted defects. The Purchaser shall bear the burden of proof for any and all eligibility requirements, in particular for the defect itself, for the period from the detection of the defect and the timeliness of the notice of defects. The conditions regarding the guarantee shall apply for the repair of the defects.

11. Guarantees

Warranty provisions agreed for the respective product group between Thermoplan and the respective Purchaser shall apply to any orders. Unless otherwise agreed, the following shall apply: Thermoplan shall warrant that the delivered machines, spare parts, cleaning agents and other products are fit for the intended use for which they have been produced. Thermoplan shall grant a twelve-month warranty on the sold products as of the date of delivery. A twelve-month warranty shall be provided for any replaced or repaired parts as of the date when the replacement or repair has been completed.

In the case of a warranty claim, any repair or replacement of any defective goods shall be at the discretion of Thermoplan. The Purchaser is to grant Thermoplan a fair period of at least 30 days for repairs or replacements.

Any claims for damages (in accordance with Art. 97 of the Swiss Code of Obligations) that are not satisfied by repair or replacement shall be explicitly excluded in the case of minor and ordinary negligence.

Cancellation of the purchase or reduction of the purchasing price are excluded.

Excluded from Thermoplan's warranty and liability are damages that arise from wear and tear, improper maintenance, failure to observe operating instructions, excessive use, unsuitable operating resources and changes made to the products by the Purchaser or a third party, or any other reason for which Thermoplan is not responsible.

12. Further liability

Thermoplan shall be liable only for the premeditated or grossly negligent breach of contractual obligations, the fulfilment of which enables the contract to be duly executed and compliance with which the customer may regularly rely upon ("material contractual obligation"). In the event of minor and ordinary negligence resulting in the breach of a material contractual obligation, Thermoplan's liability is limited to damages that are typical for the contract and foreseeable upon conclusion of the contract. In the event of minor and ordinary negligence through which secondary contractual obligations are breached, Thermoplan shall not be held liable. If Thermoplan is unable to perform at the time the contract is concluded, Thermoplan shall be liable only if Thermoplan knew of the impediment to performance, it was unknown to Thermoplan due to gross negligence or a material contractual obligation is breached due to the initial inability to perform.

Any loss of earnings, downtime and other indirect damages are excluded by Thermoplan to the extent permitted by law.

Claims for damages in the case of the acceptance of a guarantee or a procurement risk, as well as in the event of damage to life, limb or health, fraudulent concealment of a defect, and claims in accordance with the product liability law, shall remain unaffected.

13. Third party liability

Insofar as Thermoplan's liability is restricted or excluded according to the clauses above, this shall also apply to the liability of employees, representatives and other subcontractors.

14. Limitation of claims for damages

With the exception of claims resulting from unlawful acts, as well as warranty claims due to fraudulently concealed defects, the limitation of claims for damages by customers is one year.

15. Cancellation of orders and returns

In the case of delivery on account, Thermoplan shall be entitled to withdraw from the contract if the financial situation of the Purchaser substantially deteriorates or turns out differently than was presented to Thermoplan (see Section 3).

The cancellation of orders requires express, written consent from Thermoplan. Cancellation is excluded if the ordered product has already been dispatched or produced.

Ordered goods that are not covered by the warranty can be returned only if authorised in writing by Thermoplan. Returns to Thermoplan must be made without delay, quoting the return merchandise authorisation number (hereinafter RMA No.) allocated by Thermoplan. The goods must be received by Thermoplan within one month of allocating the RMA No., and the goods must be returned unused and in the original packaging. Provided that these conditions have been met, Thermoplan will refund the value of the goods in the form of a credit note; cash payments are excluded. Thermoplan reserves the right to charge a processing fee or redemption fee amounting to 15% of the value of the goods or at least 10.00 CHF. The return of goods with a net purchasing price of less than 10.00 CHF is not permitted and there is no entitlement to a refund of the value of the goods in the form of a credit note.

16. Shipping and return information

Shipping

We deliver within Switzerland and Liechtenstein.

- Shipping costs: CHF 9.00 per order
- Free shipping: for orders of CHF 65 or more
- Shipping carrier: Swiss Post
- Shipping method: PostPac Economy
- Delivery time: usually 2 to 4 working days after receipt of the order or payment

The shipping costs are clearly shown in the shopping cart and before the order is completed.

Returns and exchanges

For hygiene reasons, food products can only be returned if the packaging is unopened, undamaged and in its original sealed condition.

Returns must be registered within 14 days of receipt of the order. The products must be returned unopened, undamaged and in their original packaging.

Coffee bags that have already been opened cannot be returned or exchanged.

The costs of return shipping are generally borne by the customer. Once the returned goods have been received and inspected, the value of the goods, excluding the original shipping costs, will be refunded via the original payment method.

Damaged or incorrectly delivered items

If an item is damaged, defective or was delivered incorrectly, please contact us within 7 days of receipt of the order with a brief description and, if possible, photos. In this case, we will check the delivery and arrange a replacement or a refund. In the case of justified complaints, we will bear the costs of return shipping.

Contact for returns

Please do not send back any returns without notifying us first. Please contact us in advance at:

Thermoplan AG
Thermoplan-Platz 1, 6353 Weggis
webshop@thermoplan.ch
+41 41 392 12 00

17. Confidentiality and data protection

Thermoplan and the Purchaser undertake to treat all company and business secrets, as well as any personal data that they may become aware of, with the greatest of care and confidentiality, as well as to ensure that said infor-mation may not be accessed by third parties, whether partially or entirely.

Thermoplan and the Purchaser undertake to observe the applicable legal provisions regarding data protection and, in particular, to take suitable organisational and technical measures to ensure that the data within the scope of this contract is not modified, deleted or made known to unauthorised third parties.

Thermoplan and the Purchaser shall impose obligations regarding confidentiality and data protection on employees and authorised third parties by means of an agreement or instructions and shall ensure that they are met.

18. Severability clause

Should individual provisions of the T&C be or become invalid in part or in whole, this will not affect the validity of the remaining provisions. The provision that has become invalid in part or in whole shall be replaced by a provision which has a commercial purpose that corresponds as closely as possible to the invalid provision.

19. Applicable law and place of jurisdiction

The legal relationship between the parties is subject exclusively to Swiss law, with the exception of the United Nations Convention on Contracts for the International Sale of Goods (CISG). The exclusive place of jurisdiction is the court located in Thermoplan's place of business, i.e., Weggis (canton Lucerne/Switzerland). Thermoplan reserves the right to present any claims against the Purchaser to the competent court located at the place of residence or headquarters of the Purchaser.

Weggis, 27. August 2018