

General Terms and Conditions

- 1. Application:** All of our services are fully subject to these conditions, insofar as they have not been expressly amended or supplemented by written agreements.
- 2. Offers:** Our offers are confidential and limited to ten days, unless otherwise determined in writing in the offers. The offers may not be transferred to third parties, assigned or brought to their attention, where Thermocontrol GmbH has not agreed in advance in writing.
At our request, in the absence of corresponding orders all documents provided by to us must be returned in full.
Any violations of these obligations for confidentiality and the return of documents could possibly entitle us to damages or withdrawal from the contract.
- 3. Prices:** The prices are in Swiss francs. Price changes for supplies and services not yet provided are reserved at all times in cases of considerable changes that decisively affect the calculation base for our prices. These changes will, however, be communicated at the earliest possible moment to the customer, where there is no agreement to the contrary.
In addition, the prices shall be adjusted appropriately in the following cases:
 - if, for reasons for which the customer is responsible, the delivery time has been subsequently extended;
 - if the nature or purpose of the agreed supplies or services has changed;
 - if the material or the versions had to be changed due to documents supplied by the customer, which did not correspond to the actual conditions or were incomplete.
- 4. Payment terms and deadlines:** The invoices are payable within 30 days of the invoice date without any deduction. Cheques are only valid as payment when they were cleared.
- 5. Gross budget rule:** Claims addressed to us by the customer cannot be offset against our claims for payment of the purchase price for the products ordered.
- 6. Default:** The customer is in default at the end of the payment period without any notice. The default interest owed from that date is calculated using standard bank rates for open credit, but is, however, at least 4% above the discount rate of the Swiss National Bank.
The assertion of further damages remains unaffected.
- 7. Cancellation policy:** in case of payment default Thermocontrol GmbH reserves the right to cancel the contract, to recover the products and installations delivered and, where appropriate, to claim compensation.
- 8. Resale:** The failure to observe the sales prices and sales conditions set by Thermocontrol GmbH constitutes a contractual infringement. Thermocontrol GmbH in this case reserves the right to assert all rights due to contractual infringement (including retention of goods and withdrawal from the contract) and to review future contractual relations with the reseller.
- 9. Delivery times:** We shall endeavour to keep to the delivery deadlines stated and carefully calculated by us, even in case of unforeseen difficulties. Delivery delays entitle the customer to only proceed with a claim within the framework of statutory provisions, where the customer can prove that Thermocontrol GmbH has caused the delays by gross negligence. Partial deliveries are permitted.
- 10. Force majeure:** In all cases of force majeure we are released from the requirement to meet deadlines, without the customer having the right to cancel the contract and/or to make a claim for damages.
- 11. Guarantee (warranty):** The warranty period shall be twelve months, unless otherwise specified in the offer, the order confirmation, in any written contract or in the invoice. Our warranty extends from the date of delivery or (in the case of an agreed installation) the date of completion of the installation (date of the acceptance protocol) to all defects that may occur within the warranty period that are demonstrably attributable to material defects or faulty manufacturing. However, our warranty is limited at our discretion to the repair or replacement of the defective products or components or the compensation of the property value of the products or components not replaced. Any further material or legal warranty, in particular for so-called indirect or consequential damages, is excluded.
For modifications or repairs, which were not carried out by our own professionals or those designated by us, we can assume no liability.
- 12. Complaints (Notices of Defects):** In case of visible defects, the customer must notify us immediately upon receipt or delivery. If hidden defects only appear later, the notice must be provided immediately after their discovery.
If the customer neglects to provide notification of defects, the product is considered to be approved.
- 13. Due Diligence:** The reseller is obliged to sell the product to customers in the Thermocontrol GmbH original packaging, including the original instructions for use from Thermocontrol GmbH. If the reseller establishes that a consumer is using a Thermocontrol GmbH product, the condition of which harbours risks of damage or injuries, they must explicitly inform the end user of the potential hazard and notify Thermocontrol GmbH of this in writing.
- 14. Retention of title:** For all products sold we reserve property rights until receipt of the full purchase price and are entitled to initiate a corresponding entry in the relevant register of retention of rights at the expense of the customer.
- 15. Software programmes:** computer programmes provided to the customer in connection with the products shall remain the property of Thermocontrol GmbH or its licensors. Thermocontrol GmbH grants the customer a non-exclusive, revocable, non-transferable right to use the Thermocontrol GmbH software in machine-readable form and only in conjunction with the products. The customer may not copy these programmes in whole or in part or forward them to third parties or make them available in any way. Moreover, the customer is not permitted to modify the software without the prior written consent of Thermocontrol GmbH, create derivative works from the software or copy the written material delivered with the software. This right of use expires once the customer no longer uses the programmes or products with which they were delivered; in this case the customer must return all programme documents immediately to Thermocontrol GmbH.
The customer acknowledges that it is not possible at the present state of technology to create software programmes, so that they work perfectly in all applications and combinations. Accordingly, Thermocontrol GmbH only provides a warranty for instances where the software is basically usable according to the programme description and the user documentation and that the disk is error-free at the time of delivery. Further warranty claims are excluded.
- 16. The place of fulfilment and jurisdiction is in Zurich 1. Our contracts are governed by Swiss law, the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) shall not apply.**