

General Terms and Conditions of Sale (Commercial Customers) of HILO THERM GmbH

§ 1 Scope, form

- (1) These General Terms and Conditions of Sale (GTC) apply to all our business relationships with our customers ("Buyers"). The GTCs shall only apply if the buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.
- (2) The GTCs apply in particular to contracts for the sale and/or delivery of movable goods ("goods"), regardless of whether we manufacture the goods ourselves or purchase them from suppliers (§§ 433, 450 BGB). Unless otherwise agreed, the GTCs in the version valid at the time of the Buyer's order or, in any case, in the version last communicated to the Buyer in text form shall also apply as a framework agreement for similar future contracts, without us having to refer to them again in each individual case.
- (3) Our GTCs shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the buyer shall only become part of the contract if and to the extent that we have expressly agreed to their validity. This requirement of consent applies in any case, for example even if the buyer refers to his terms and conditions in the context of the order and we do not expressly object to this.
- (4) Individual agreements (e.g. framework supply agreements, quality assurance agreements) and information in our order confirmation take precedence over the GTC.
- (5) Legally relevant declarations and notifications by the buyer with regard to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in writing. **Written form within the meaning of these GTC includes written and text form (e.g. letter, e-mail, fax).** Legal formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declarant, remain unaffected.
- (6) References to the applicability of statutory provisions are for clarification purposes only. Therefore, even without such clarification, the statutory provisions shall apply, unless they are directly amended or expressly excluded in these GTCs.

§ 2 Conclusion of contract

- (1) Our offers are subject to change and non-binding. This also applies if we have provided the buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, calculations, references to DIN standards), other product descriptions or documents – also in electronic form – to which we reserve property rights and copyrights.
- (2) The order of the goods by the buyer shall be deemed to be a binding offer to enter into a contract. Unless otherwise stated in the order, we are entitled to accept this contractual offer within 10 days of its receipt by us.
- (3) Acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of the goods to the buyer.

§ 3 Delivery period and delay in delivery

- (1) The delivery period shall be agreed individually or shall be specified by us upon acceptance of the order.
- (2) If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we will inform the buyer of this immediately and at the same time inform him of the expected new delivery deadline. If the service is also not available within the new delivery period, we are entitled to withdraw from the contract in whole or in part; we will immediately reimburse any consideration already provided by the buyer. Unavailability of the service exists, for example, in the event of late delivery by our supplier if we have concluded a congruent hedging transaction, in the event of other disruptions in the supply chain, for example due to force majeure or if we are not obliged to procure in individual cases.
- (3) The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the buyer is required. If we are in default of delivery, the buyer may demand lump-sum compensation for his damage caused by the delay. The lump-sum compensation amounts to 0.5% of the net price (delivery value) for each completed calendar week of delay, but not more than a total of 5% of the delivery value of the goods delivered late. We reserve the right to prove that the buyer has suffered no damage at all or only significantly less damage than the above lump sum.
- (4) The rights of the buyer in accordance with § 8 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

§ 4 Delivery, Transfer of Risk, Acceptance, Default of Acceptance

- (1) Delivery shall be made ex warehouse, which is also the place of performance for the delivery and any subsequent performance. At the request and expense of the buyer, the goods will be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.
- (2) The risk of accidental loss and accidental deterioration of the goods shall pass to the buyer at the latest upon handover. In the case of sale by delivery to a place other than the place of performance, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the customer upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. Insofar as acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply accordingly to an agreed acceptance. The handover or acceptance shall be deemed to have taken place if the buyer is in default of acceptance.
- (3) If the buyer is in default of acceptance, if he fails to cooperate or if our delivery is delayed for other reasons for which the buyer is responsible, we shall be entitled to demand compensation for the resulting damage, including additional expenses (e.g. storage costs). The buyer is entitled to prove that we have suffered no damage at all or only significantly less damage.

§ 5 Prices and terms of payment

- (1) Unless otherwise agreed in individual cases, our prices current at the time of conclusion of the contract shall apply, ex warehouse, plus statutory value added tax.
- (2) In the case of sale by delivery to a place other than the place of performance (§ 4 para. 1), the buyer bears the transport costs ex warehouse and the costs of any transport insurance requested by the buyer. Any customs duties, fees, taxes and other public charges shall be borne by the buyer.
- (3) The purchase price is due and payable within 14 days of invoicing and delivery or acceptance of the goods. However, we are entitled, even in the context of an ongoing business relationship, at any time to carry out a delivery in whole or in part only against advance payment. We declare a corresponding reservation at the latest with the order confirmation.
- (4) Upon expiry of the above payment period, the buyer shall be in default. During the period of default, interest shall be charged on the purchase price at the applicable statutory default interest rate. We reserve the right to assert further damages caused by default. With regard to merchants, our claim to the commercial maturity interest (§ 353 HGB) remains unaffected.
- (5) The buyer shall only be entitled to rights of set-off or retention to the extent that his claim has been legally established or is undisputed. In the event of defects in the delivery, the Buyer's counter-claims, in particular pursuant to § 7 para. 6 sentence 2 of these GTC, shall remain unaffected.
- (6) If, after conclusion of the contract, it becomes apparent (e.g. by filing for the opening of insolvency proceedings) that our claim to the purchase price is jeopardized by the buyer's inability to pay, we shall be entitled to refuse performance and - if necessary after setting a deadline - to withdraw from the contract in accordance with the statutory provisions (§ 321 BGB). In the case of contracts for the production of non-fungible items (custom-made products), we can declare withdrawal immediately; the statutory provisions on the dispensability of setting a deadline remain unaffected.

§ 6 Retention of title

- (1) Until full payment of all our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims), we reserve title to the goods sold.
- (2) The goods subject to retention of title may not be pledged to third parties or assigned by way of security before the secured claims have been paid in full. The buyer must notify us immediately in writing if an application for the opening of insolvency proceedings is filed or if third parties (e.g. seizures) have access to the goods belonging to us.
- (3) In the event of breach of contract by the buyer, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand for surrender does not at the same time include the declaration of withdrawal; rather, we are entitled to demand only the return of the goods and to reserve the right to withdraw from the contract. If the buyer does not pay the purchase price due, we may only assert these rights if we have previously set the buyer a reasonable deadline for payment without success or if such a deadline is dispensable according to the statutory provisions.
- (4) Until revoked in accordance with (c) below, the buyer is entitled to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.
 - (a) The retention of title extends to the full value of the products resulting from the processing, mixing or combination of our goods, whereby we shall be deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.
 - (b) The buyer hereby assigns to us by way of security the claims against third parties arising from the resale of the goods or the product in total or in the amount of our co-ownership share, if any, in accordance with the preceding

paragraph. We accept the assignment. The obligations of the buyer mentioned in paragraph 2 shall also apply with regard to the assigned claims.

- (c) In addition to us, the buyer remains authorized to collect the claim. We undertake not to collect the claim as long as the buyer fulfills his payment obligations to us, there is no defect in his ability to pay and we do not assert the retention of title by exercising a right pursuant to paragraph 3. However, if this is the case, we may demand that the buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the associated documents and informs the debtors (third parties) of the assignment. In addition, in this case we are entitled to revoke the buyer's authorization to further sell and process the goods subject to retention of title.
- (d) If the realizable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the request of the buyer.

§ 7 Buyer's claims for defects

- (1) The statutory provisions shall apply to the rights of the buyer in the event of material defects and defects of title (including incorrect and short delivery as well as improper assembly/installation or defective instructions), unless otherwise stipulated below. In all cases, the statutory provisions on the sale of consumer goods (§§ 474 ff. BGB) remain unaffected.
- (2) The basis of our liability for defects is, above all, the agreement made on the quality and presumed use of the goods (including accessories and instructions). In this sense, all product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by us (in particular in catalogues or on our Internet homepage) at the time of the conclusion of the contract shall be deemed to be quality agreements. Insofar as the quality has not been agreed, it is to be assessed according to the statutory regulation whether a defect exists or not (§ 434 para. 3 BGB). Public statements made by the manufacturer or on his behalf, in particular those made by the manufacturer, in the advertisement or on the label of the goods, statements by other third parties take precedence.
- (3) In the case of goods with digital elements or other digital content, we owe the provision and, if necessary, an update of the digital content only insofar as this expressly results from a quality agreement pursuant to para. 2.
- (4) As a matter of principle, we are not liable for defects that the buyer is aware of at the time of conclusion of the contract or is not aware of due to gross negligence (§ 442 BGB). Furthermore, the buyer's claims for defects presuppose that he has complied with his statutory inspection and notification obligations (§§ 377, 381 HGB). If a defect becomes apparent during delivery, inspection or at any later point in time, we must be notified of this in writing without delay. In any case, obvious defects must be reported in writing within 3 working days of delivery and defects not recognizable during the inspection within the same period of time from discovery. If the buyer fails to properly inspect and/or report defects, our liability for the defect not reported or not reported in time or not reported properly is excluded in accordance with the statutory provisions. In the case of goods intended for installation, attachment or installation this shall also apply if the defect became apparent only after the corresponding processing as a result of the breach of one of these obligations; in this case, in particular, there are no claims on the part of the buyer for reimbursement of corresponding costs ("removal and installation costs").
- (5) If the delivered item is defective, we may initially choose whether we provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery). If the type of supplementary performance chosen by us is unreasonable for the buyer in individual cases, he may reject it. Our right to refuse subsequent performance under the statutory conditions remains unaffected.
- (6) We are entitled to make the subsequent performance owed dependent on the buyer paying the purchase price due. However, the buyer is entitled to retain a reasonable part of the purchase price in relation to the defect.
- (7) The buyer must give us the time and opportunity necessary for the subsequent performance owed, in particular to hand over the rejected goods for inspection purposes. In the event of a replacement delivery, the buyer must return the defective item to us at our request in accordance with the statutory provisions; however, the buyer is not entitled to a return. Subsequent performance does not include the removal, removal or disinstallation of the defective item or the installation, attachment or installation of a defect-free item if we were not originally obliged to provide these services; Claims of the buyer for reimbursement of corresponding costs ("removal and installation costs") remain unaffected.
- (8) We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, in accordance with the statutory provisions and these GTC, if a defect actually exists. Otherwise, we may demand reimbursement from the buyer for the costs incurred as a result of the unjustified request to remedy the defect if the buyer knew or could have recognized that there was actually no defect.
- (9) In urgent cases, e.g. in the event of a threat to operational safety or to avert disproportionate damage, the buyer has the right to remedy the defect himself and to demand reimbursement from us for the objectively necessary expenses. We must be notified of such self-remedy immediately, if possible in advance. The right to self-remedy does not exist if we would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.
- (10) If a reasonable deadline to be set by the buyer for subsequent performance has expired unsuccessfully or is dispensable according to the statutory provisions, the buyer may withdraw from the purchase contract or reduce the purchase price in accordance with the statutory provisions. In the case of an insignificant defect, however, there is no right of withdrawal.
- (11) Claims of the buyer for reimbursement of expenses pursuant to § 445a para. 1 BGB are excluded, unless the last contract in the supply chain is a purchase of consumer goods (§§ 478, 474 BGB) or a consumer contract for the provision of digital products (§§ 445c p. 2, 327 para. 5, 327u BGB). Claims of the buyer for damages or reimbursement of futile expenses (§ 284 BGB) exist even in the case of defects in the goods only in accordance with the following §§ 8 and 9.

§ 8 Other liability

- (1) Unless otherwise stated in these GTCs, including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- (2) We shall be liable for damages – irrespective of the legal grounds – within the scope of fault-based liability in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. care in our own affairs; insignificant breach of duty),
 - a) for damages resulting from injury to life, limb or health,
 - b) for damages resulting from the breach of an essential contractual obligation (obligation, the fulfillment of which is essential for the proper execution of the contract and on the observance of which the contractual partner regularly relies and may rely); in this case, however, our liability is limited to compensation for the foreseeable, typically occurring damage.
- (3) The limitations of liability resulting from paragraph 2 shall also apply to third parties as well as to breaches of duty by persons (also in their favour) whose fault we are responsible for in accordance with statutory provisions. They do not apply if a defect has been fraudulently concealed or a guarantee has been assumed for the quality of the goods and for claims of the buyer under the Product Liability Act.
- (4) Due to a breach of duty that does not consist of a defect, the buyer may only withdraw from or terminate the contract if we are responsible for the breach of duty. A free right of termination of the buyer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

§ 9 Statute of limitations

- (1) Notwithstanding Section 438 (1) No. 3 of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance.
- (2) Further special statutory provisions on the statute of limitations (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 445b BGB) remain unaffected.
- (3) The above limitation periods of the law on sales shall also apply to contractual and non-contractual claims for damages by the buyer based on a defect in the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. Claims for damages by the buyer under the Product Liability Act shall become statute-barred exclusively in accordance with the statutory limitation periods.

§ 10 Choice of law and place of jurisdiction

- (1) These GTCs and the contractual relationship between us and the buyer shall be governed by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
- (2) If the buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Argenbühl. The same applies if the buyer is an entrepreneur within the meaning of § 14 BGB. In all cases, however, we shall also be entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTCs or a prior individual agreement or at the general place of jurisdiction of the buyer. Overriding statutory provisions, in particular those relating to exclusive jurisdiction, shall remain unaffected.