



THALER

Terms of Sale

1. APPLICATION: Our supplies and services shall be provided **solely on the basis of these Terms of Sale**, which represent an **integral part of each contract** with the customer and of each of our declarations of intention. **Contradictory or deviating terms of the customer** shall not be recognised; this shall also be the case if we do not explicitly refer to this hereinafter.

2. CONTRACT CONCLUSION: Terms that deviate from the contents of the contract shall be documented **in writing**, at least in the form of written order confirmations, in order to be legally effective. Our staff is prohibited from making agreements that deviate from these Terms. **Declarations of intention that deviate from these Terms shall only be effective if we have confirmed them in writing.** Except for transactions with consumers, our offers shall only be **binding** if they are made **in writing** and are designated as such. **Verbal or telephone declarations** shall only be binding **if we confirm them in writing.**

3. COST ESTIMATES: If the transaction in question **does not represent a transaction with a consumer** and nothing has been agreed upon otherwise in writing, a cost estimate shall, on principle, be **in writing, binding and non-gratuitous.** Simple verbal **cost estimates** shall not be **binding or subject to charge.** Upon placing an order within the scope of a cost estimate, the fee paid for the cost estimate shall be credited.

4. PRICE CHANGES: We shall reserve the right to **pass on price increases** we have incurred based on collective agreement wage rises or due to other costs necessary to provide the supply, for instance, for materials, energy, transport, etc., to the customer. Offers and cost estimates shall be provided in line with the best technical knowledge. Unpredictable circumstances that are specific to an order shall not be taken into consideration. Should **further necessary work and/or cost increases occur that amount to more than 15 % of the value of the order,** we shall inform the customer immediately. Should the customer **not take a decision** regarding the continuation of work within one week or not agree to the cost increases, we shall reserve the right to **invoice the partial work and terminate the contract.**

5. DOCUMENTS: Drafts, sketches, drawings, plans and any other documents shall represent our exclusive property. They must not be copied or made available to third parties without our written consent. Upon request, these documents shall be returned to us immediately. Plans shall be deemed to aid orientation and not reproduce all details true to scale or to the original. **Technical and construction-related deviations shall also be possible.** If the customer provides **plans or measurements,** he shall be **liable** for their correctness, unless their incorrectness is obvious. If instructions given by the customer prove to be **incorrect,** we shall **inform** him immediately and request that he give corresponding **instructions.** If the customer **does not provide instructions in a timely fashion,** he shall be **liable for the costs incurred until that time as well as for the costs of execution.**

6. MATERIALS: The **operating and maintenance instructions** shall be provided upon delivery and adhered to strictly by the customer. Should instructions be missing, the customer shall be obliged to report this immediately. If these instructions are **not adhered to sufficiently,** we shall be free from every **warranty and indemnity obligation,** insofar as this led to the defect.

7. ORDERED GOODS: If goods that have been ordered **can no longer be delivered** owing to factors **beyond our control,** we shall inform the customer. **Indemnity claims** shall be **excluded,** insofar as neither intention nor gross negligence on our part is given.

8. DELIVERY TIME: We shall endeavour to comply with the agreed delivery times to the best of our conscience. If delivery is partially or entirely **delayed due to circumstances for which we are not responsible,** especially due to a supplier not meeting the delivery times, **our delivery time shall be extended by the period of the delay.** The customer shall not have the right to terminate the contract before having set an **extended deadline of at least 8 weeks** by means of a registered letter and this deadline having expired. **Indemnity claims** based on delayed delivery shall be **excluded,** insofar as neither intention nor gross negligence on our part is given. If, in a particular case, a delivery date could not be sufficiently determined in advance and was only stipulated **approximately,** the customer shall **have the right to set us an appropriate deadline extension of at least 4 weeks in writing,** insofar as the unbinding date has expired by more than 4 weeks.

9. ASSEMBLY AND OTHER ACTIVITIES: The costs for **delivery, assembly or installation shall not be deemed included in the sales price.** We shall **separately invoice** installation and other assembly works in line with the respectively customary overhead expenses for working and travel time (per person and hour). The customer shall confirm the **proper execution of these works** by means of **signing the assembly register.** All additional services that occur during the course of assembly shall be invoiced afterwards. We do not provide any type of electrical connections. Appliances shall be installed, but not connected. The customer shall be responsible for ensuring that **access to the assembly location and the assembly location itself are clear.** Removal of objects from these areas shall by no means be deemed part of the order. Nevertheless, if such works have to be undertaken by the assembly staff, this shall be charged, and indemnity claims based on these works being executed poorly shall be excluded, insofar as neither intention nor gross negligence on our part is given.

10. PAYMENTS: **50 % of the value of the order shall be due upon concluding the sales contract as advance payment and the remainder shall be due within 10 days following delivery.** All payments shall be made without any reductions in cash or by bank transfer to the account we have provided. In the case of late payments, monthly interest amounting to 1 % shall be calculated. **Undesignated payments** shall first be credited to potential costs, then to interest and finally to the main obligation. **Our delivery staff is not authorised to accept payments.** In the case of **late payments,** we shall also be freed from further supply and service obligations and **have the right to retain** pending deliveries, demand **payment in advance and/or a security** or **terminate** the contract after setting an appropriate extended deadline. In the last aforementioned case, we shall have the right to charge a **lump indemnity of 25 % of the invoice amount** or, at our discretion, of the amount of the damages actually incurred. If the customer does not fulfil his payment obligations or stops payments or if insolvency proceedings are opened against his assets, the entire remaining debt shall become due. **In the case of late payments, the customer shall be obliged to pay all admonition and collections fees.** 5 EUR per admonition shall be charged. We shall have the right to contract a **collection agency,** the costs of which shall be born by the customer up to the upper limits named in the respectively effective version of the decree of the Federal Ministry for Economic Affairs and Labour.

11. LATE ADVANCE PAYMENT: If, after accepting an order, **justified doubt regarding the solvency / creditworthiness of the customer** is given, which is especially the case if an agreed advance payment is not made in full despite an 8-day deadline extension being set, we shall have the right to choose between demanding **immediate cash payment** of the entire value of the order or the **provision of an appropriate security** prior to delivery or to **terminate** the

contract. **In addition to compensation of the expenses already incurred** without proof of damages, we shall also be entitled to demand **50 % of the agreed gross value** of the order or, at our discretion, indemnity of the damages actually incurred.

12. OTHER JUSTIFICATIONS FOR TERMINATION: The following circumstances shall entitle us to **terminate supply:** **Technical difficulties** that make execution impossible or unreasonable for us or the suppliers; discontinuation of operations, fire damages, insufficient raw materials or electricity or other disruptions of operations that we or the suppliers experience; strike, shut-out, war, transport disturbances and **any other case of force majeure.**

13. OFFSETTING: The customer shall **not be entitled to offset** his own claims, regardless of their nature, against our claims, regardless of their nature, **unless there is a legal relationship** between the counterclaims of the customer with the obligation of the customer, they are **ascertained by a court or we have recognised them.**

14. DEFAULT IN ACCEPTANCE AND CANCELLATION: If the customer does not accept the goods, we shall be entitled, at our discretion, to **fulfilment of the contract or indemnity amounting to 50 % of the gross sales price,** irrespective of the possibility of asserting potentially higher damages. The same shall hold if the customer **unrightfully terminates the order** prior to the delivery of the goods. If the customer does not collect goods ordered on call, we shall be entitled to charge **storage costs in the amount of 0.1 % per day of the gross sales price** as of the first week following the collection date. The aforementioned regulation regarding default in acceptance shall remain unaffected.

15. TITLE RETENTION: If the sales article is delivered prior to payment, it shall remain **our property until full payment,** including all ancillary fees. The customer shall be prohibited from a lien or any other legal disposal over the goods subject to title retention. He shall insure them against fire, burglary and water damages and assign the benefits provided by these insurances to us until the title retention expires. If goods are sold in **several contracts, these sales contracts shall be deemed a uniform contract regarding title retention,** so **all delivered goods shall not become the property of the customer** until he has paid the **overall sales price** stipulated in the various contracts. Title retention shall also hold explicitly for **all fittings that are installed and/or connected by means of a firm substance.** In the case of **late payments** by the customer, we shall be entitled, but not obligated to take the articles for which we hold a title retention into safekeeping without a court decision, **to sell them freely and to satisfy our claims from the proceeds,** that these, after allowing for all costs and charges in connection with the sale, be offset against the remainder of our claim, **but this shall not be deemed a termination of the contract.** After setting an appropriate **extended deadline,** we shall also be entitled to **terminate** the contract and to **sell** the goods following effective termination. In this case, we shall be entitled to charge a **lump indemnity amounting to 50 % of the invoice amount** or, at our discretion, the damages actually incurred.

16. TRANSFER OF RISK: All risks, including accidental demise, shall be **transferred to the customer at the time of fulfilment.** In the case of deliveries ex works, the time of fulfilment shall be deemed the receipt of **notification that the goods are ready to be delivered.** In other cases, it shall be deemed the **transfer of power of disposition.** In case the customer collects the goods himself, the **transport risk** shall be born by the buyer.

17. INDEMNITY: All cases of contractual breaches (defects, delayed delivery, etc.) and their legal consequences as well as all claims by the customer, irrespective of the legal reason, shall be regulated definitively in these Terms. **Claims by the customer to abrogate or cancel the contract (e.g. due to error or reduction by more than half) shall therefore be excluded.** We shall **only be liable** for damages that arise owing to **gross negligence or intention on our part.** This shall also hold for claims stemming from pre-contractual negligence as well as regarding all – also enduring – protection, diligence and disclosure duties. **This also holds for damages that were not incurred to the delivery article,** for instance disruption of operations, loss of use, loss of orders, recourse receivables of customers, lost profits as well as for all other indirect or direct damages.

18. WARRANTY: Complaints shall only be taken into consideration if a **notice of defects** is received **in writing within 3 days** following acceptance from the seller. Providing the goods to third parties shall constitute unconditional acceptance of the goods. All **complaints shall be precisely detailed.** Complaints that are submitted late or are kept general shall not be recognised. The warranty period shall be **6 months** as of transfer of risk. The seller shall **not be liable** for damages that arise in connection with the **use or processing of the delivered goods.** We shall only be liable for **special scopes** planned by the buyer if these scopes are part of the contents of the contract. Returns shall only be accepted following prior consent in writing; otherwise, the return shall be refused. We shall fulfil our **warranty obligations,** at our discretion, by means of **completely or partially exchanging goods or reducing the price.** Upon request, the customer shall **immediately return** the defective product **at his own costs.** If the operating and maintenance instructions are not adhered to, we shall be freed from all warranty and indemnity obligations, insofar as the defect arose owing to this.

19. GUARANTEE PROMISES: If we have made any promises of guarantee, these shall **only hold for purpose-specific use** of the products, especially professional assembly and proper care. A promise of guarantee shall **not comprise wear of any kind or damages.** In the case of guarantees promised by manufacturers, their guarantee conditions shall hold.

20. APPLICABLE LAW / PLACE OF JURISDICTION: **Austrian Law** shall be applicable, excluding all conflict rules, especially those of the United Nations Convention on Contracts for the International Sale of Goods. The place of jurisdiction shall **only be deemed as the place where our company has its registered office.**