



## General Business Conditions

of THERMACUT, k. s., corporate ID No.: 469 63 715, registered office: Sokolovská ul. 574, Mařatice, postcode: 686 01, Uherské Hradiště

### 1 Scope and application of the General Business Conditions

- 1.1 These General Business Conditions (hereinafter referred to as “GBC”) govern contractual relationships in supplies of goods (hereinafter referred to as the “Goods”) that arise on the basis of a purchase contract (hereinafter also referred to as the “Contract”) between THERMACUT, k. s., corporate ID No.: 469 63 715, registered office: Sokolovská ul. 574, Mařatice, postcode: 686 01, Uherské Hradiště (hereinafter also referred to as the “Seller”) and the other contracting party as the recipient of the Goods (hereinafter referred to as the “Buyer”), including the method of concluding the Contract and relationships under Contract negotiations. These GBC become an integral part of the Contract, once it is concluded.
- 1.2 The specific provisions of the concluded Contract shall apply to the agreed business cases between the Seller and Buyer by preference over these GBC. If the Seller and Buyer enter into a framework agreement, it holds that both the Seller and Buyer consider these GBC (as amended at the moment of sending each binding offer for a particular subcontract, if applicable, or at the moment of concluding a subcontract) an integral part of each subcontract concluded based on such framework agreement. Articles 2.6 and 2.7 of these GBC shall apply by analogy to the conclusion of the framework agreement.
- 1.3 Neither the Contract nor relationships arising out of negotiations on the Contract shall be governed by any provisions of the Buyer’s business conditions, unless explicitly agreed in the Contract with the Seller otherwise. Application of provisions of Sec. 1751, paragraph 2 of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as the “Civil Code”) is excluded.
- 1.4 The Contract as well as any and all legal relationships established thereunder or in connection therewith between the Seller and Buyer shall be governed by laws of the Czech Republic, excluding the Vienna Convention on Contracts for the International Sale of Goods.
- 1.5 The contractual language is the Czech language, which shall prevail over any other language version.

### 2 Conclusion of Contract

- 2.1 In respect of Goods offered by the Seller within the scope of its business, the Buyer shall submit its enquiry to the Seller in one of the following forms: (i) by telephone, (ii) by mail, (iii) by e-mail to [obchod@thermacut.cz](mailto:obchod@thermacut.cz) (for communication in Czech) or [sales@thermacut.cz](mailto:sales@thermacut.cz) (for communication in a different language), (v) via the online form at [www.thermacut.net](http://www.thermacut.net) or (vi) in writing, delivered in person to the Seller’s establishment, according to the Buyer’s free choice (hereinafter referred to as the „Enquiry”). In the Enquiry, the Buyer shall state its contact e-mail address to receive a binding offer, the proposed payment method (cash, cash on delivery, wire transfer), special requirements for packaging and transport. Detailed requisites of an Enquiry and the Seller’s contact data are stated in respect of the particular forms on the Seller’s website at [www.thermacut.net](http://www.thermacut.net), under “How to order”.
- 2.2 Based on the Buyer’s enquiry, the Seller shall send its binding offer (“Binding Offer”) to the Buyer’s e-mail address stated in the Enquiry without undue delay following delivery of the Buyer’s Enquiry according to paragraph 2.1. The Binding Offer shall include, inter alia, the type and quantity of Goods, its total purchase price and the estimated term of delivery of the Goods (taking into account whether the Goods will be transported), and reference to these GBC. If the Buyer failed to state its contact e-mail address in the Enquiry, the Seller shall send the Binding Offer to the address of the Buyer’s registered office/place of business if the Buyer is a business, or the Buyer’s domicile address if the Buyer is a consumer.
- 2.3 The Contract is concluded as of the moment when the Buyer accepts the Binding Offer without reservations (confirms it) by sending an e-mail to [obchod@thermacut.cz](mailto:obchod@thermacut.cz) (for communication in Czech) or [sales@thermacut.cz](mailto:sales@thermacut.cz) (for communication in a different language). By confirming a Binding Offer the Buyer confirms to the Seller that he has read these GBC, unreservedly agrees with the GBC as amended at the time of delivery of the Seller’s Binding Offer, accepts the GBC and will comply with the GBC.
- 2.4 Acceptance of a Binding Offer subject to any addition, reservation, restriction, deviation or other change is a new proposal that the Seller is not obliged to accept. Acceptance of such new proposal must be made by the Seller in an explicit manner, otherwise no Contract is established, even if the Seller dispatches the Goods; in the case of dispatching the Goods without prior or later explicit acceptance of the new proposal by the Seller, the Buyer is obliged to return the Goods at request of the Seller and to compensate the Seller for cost incurred in connection with the dispatch of the Goods.
- 2.5 If the Seller accepts the Buyer’s new proposal (paragraph 2.4 of these GBC) subject to any addition, reservation, restriction, deviation or other change, the Buyer is obliged to confirm his disagreement with such change to the Seller to [obchod@thermacut.cz](mailto:obchod@thermacut.cz) (for communication in Czech) or [sales@thermacut.cz](mailto:sales@thermacut.cz) (for communication in a different language) within one business day from the date of delivery of such acceptance; if the Buyer fails to do so, it shall be deemed that the Buyer accepts the proposal with the changes.
- 2.6 A Contract may also be concluded in another manner than mentioned above (by negotiations on an individual draft Contract), however in such case, the Contract is only concluded as of the moment when the Buyer and Seller agree on the full wording of the Contract in writing, free of any reservations or additions.
- 2.7 Until the moment of concluding the Contract the Buyer may not rely that the Contract will be concluded.



### 3 Rights and obligations of contracting parties Defects of Goods, warranty terms

- 3.1 The Seller is obliged to (i) supply ordered Goods to the Buyer in a proper and timely manner at the agreed place of supply, (ii) provide the Buyer with documents relating to the Goods, and (iii) allow the Buyer to acquire title to the Goods. The Seller shall deliver the Goods in the quality and design as described in the technical data sheet of the Goods published at the time of sending the Binding Offer on the Seller's websites ([www.thermacut.net](http://www.thermacut.net), [www.ex-trafire.com](http://www.ex-trafire.com), [www.ex-trabeam.com](http://www.ex-trabeam.com)), otherwise in the quality and design suitable for the purpose arising out of the Contract, otherwise for usual purpose. The Seller shall send documents relating to the Goods, in particular declarations and certificates, to the Buyer immediately, however no later than within two business days from acceptance of the Goods by the Buyer.
- 3.2 The Buyer is obliged to properly accept the ordered Goods and to pay the purchase price for the Goods in due time according to the terms pre-agreed in the Contract.
- 3.3 Rights and obligations of the parties relating to claims regarding defects of the Goods (different quality, quantity, price or other agreed parameters of the Goods compared against the terms and conditions agreed in the Contract) shall be governed by these GBC and the warranty document attached to these GBC and forming an integral part hereof. Terms used in the warranty document are identical with the terms used in these GBC.
- 3.4 The Seller undertakes to supply the Goods to the Buyer free of defects. The Buyer is entitled to exercise rights under defective supply in accordance with the provisions of Sec. 2099 and the following of the Civil Code. The Buyer is obliged to inspect the Goods as soon as possible after the passing of the risk of damage to the Goods or after the Buyer has an opportunity to inspect the Goods (if the risk of damage to the Goods passes by delivery of the Goods to the carrier), and to check the characteristics and quantities of the Goods; if the Buyer is a business, he is obliged to inspect the Goods with due professional care. The Buyer is obliged to report (claim) defects of the Goods immediately after detecting the defect using the online form available at <https://complaint.thermacut.net>. The Buyer shall also attach a copy of a document on the purchase of the Goods to the complaint. The Buyer shall submit the original document on the purchase of the Goods to the Seller at request. In the complaint, the Buyer shall include his contact details and a description of the defect.
- 3.5 After examining the defect, however no later than within 30 days from the defect claim, the Seller shall inform the Buyer by e-mail whether the Seller is liable for the defect (whether it is a defect of the Goods according to the Contract, whether the defect is covered by warranty) and how it will remove the defect (repair of the Goods, discount from the purchase price, replacement of the Goods, return of the Goods and purchase price). The Buyer is obliged to provide cooperation to the Seller necessary to evaluate the defect. The Seller is obliged to start removal of the defect at own cost without undue delay after informing about the method of defect removal according to the previous paragraph, while if within the said term the Seller starts activities leading to removal of the defect, the Buyer is not entitled to claim discount or withdraw from the Contract. Further, in such case, the Buyer is not entitled to retain a portion of the purchase price estimated to correspond to the Buyer's right for discount.
- 3.6 The warranty period shall not be extended in the case of replacement of defective Goods with new Goods. In the case of repair of defective Goods, the warranty period applicable to such Goods shall be suspended for the time from reporting the defect until its removal.
- 3.7 The Seller is not liable for defects caused by the Buyer or a third party by improper or unprofessional handling (particularly repair or alteration by an unauthorized person) or installation of the Goods or by negligent handling of the Goods, use of excessive force, unsuitable equipment or needs, or resulting from other effects not related to the original purpose of use of the Goods, their improper operation or insufficient maintenance, in particular failure to comply with the operating instructions, or use of the Goods beyond its technical specifications. The Buyer is obliged to compensate the Seller for any and all cost incurred due to an unjustified defect claim, including the cost of removal of such defect, if any. If requested by the Buyer, the Seller shall confirm to the Buyer in writing the scope and term of its obligations under defective supply and the methods how the Buyer may exercise rights thereunder.
- 3.8 By way of derogation from Sec. 2951, paragraph 1 of the Civil Code, damages are always compensated in cash. If the Seller is liable for damages caused to the Buyer by breach of a Contract or otherwise, the Seller is only liable to the extent of actual damages (explicitly not in particular to the extent of lost profit or non-material damage); the Seller's obligation to compensate for damages and to pay any and all contractual penalties is limited to 25 % of the total purchase price (excluding VAT) according to the Contract; however, the Seller is obliged to compensate damages in full if it has caused such damages by wilful misconduct or if the case concerns damage to health or personality rights of a person.
- 3.9 If the Buyer is a consumer, special provisions on the sale of goods in a store pursuant to Sec. 2158 and the following of the Civil Code shall also apply to the contractual relationship.

### 4 Protection of industrial rights and copyright, technical requirements

- 4.1 By conclusion of a Contract, no rights are created for the Buyer to use the registered trademarks, trade names, company logos or patents of the Seller. Also, the Buyer is aware that no copyright to the Seller's offers, drawings, descriptions or other documents, or samples made available to the Buyer, arises for the Buyer by purchase of products (Goods) offered by the Seller, unless agreed otherwise.



- 4.2 The Seller represents that in marketing the Goods it complies with the obligations arising out of Act No. 22/1997 Coll., on technical requirements for products, as amended.

## **5 Supply of Goods and delivery to Buyer, passing of risk of damage to Goods**

- 5.1 The moment of supply of the Goods to the Buyer having his registered office/place of business, if the Buyer is a business, or domicile address, if the Buyer is a consumer, in the territory of the Czech Republic is considered:
- (i) if transport of the Goods is agreed in the Contract:
    - a) if the Buyer is a business, the moment of supply of the Goods is delivery of the Goods to the first carrier for transport,
    - b) if the Buyer is a consumer, the Goods are supplied as soon as the items are handed over to the Buyer by the carrier offered by the Seller, or
  - (ii) the moment when the Buyer accepts the Goods in person (or through a party authorized to do so) in the Seller's registered office or establishment, or
  - (iii) the moment when takeover of the Goods by the Buyer is made possible by the Seller.
- 5.2 The moment of supply of the Goods to the Buyer having his registered office/place of business, if the Buyer is a business, or domicile address, if the Buyer is a consumer, outside the territory of the Czech Republic is determined by the INCOTERMS 2010 delivery clause contained in the Contract. If no INCOTERMS 2010 is agreed in the Contract, Article 5.1 of these GBC shall apply.
- 5.3 The risk of damage to the Goods shall pass from the Seller to the Buyer as of the moment of supply of the Goods to the Buyer (Articles 5.1 and 5.2 of these GBC above).
- 5.4 In the case of supply of Goods via a carrier, the Buyer is obliged to check before confirming takeover of the Goods in writing whether the data stated in the transport note match the order. If the data in the transport note do not match facts according to the Contract or if the original packaging is broken or otherwise destroyed, the Buyer is obliged to state the same in the carrier's transport note and draft a damage record with the carrier or refuse the Goods as a whole, make documenting photographs and inform the Seller about the fact without undue delay, however only if the risk of damage to the Goods passes to the Buyer later than as stipulated in Article 9.7 of these GBC.
- 5.5 If a Buyer who is a natural person takes over the Goods, he or she shall confirm takeover of the Goods on the delivery note containing, inter alia, the Buyer's name and surname, ID card number (or number of another proof of identity), other identification data, if applicable, and the Buyer's signature. If Buyer who is a legal entity takes over the Goods, the Buyer shall confirm takeover of the Goods on the delivery note by stating the Buyer's business name, registered office, corporate ID No., and name and surname of the person authorized to accept the Goods, and signature of the authorized person. Upon takeover of the Goods, the Buyer is obliged to establish authorization of the Buyer's representative to accept the Goods to the satisfaction of the Seller. However, the Seller is not obliged to verify identity of the person accepting the Goods or authorization of such person to accept the Goods beyond the framework of regular care.
- 5.6 If the Buyer refuses to take over properly supplied Goods, he shall be obliged to compensate the Seller for any all damages, particularly including the cost of processing the Enquiry and the cost of packing and dispatching the Goods.
- 5.7 Unless the Contract explicitly stipulates for the price of transport, it holds that no transport has been agreed.

## **6 Delivery term, force majeure preventing Seller's performance of Contract**

- 6.1 The term of delivery of the Goods is agreed in the Contract. The Seller is entitled to supply the Goods at any time within the term of delivery of the Goods and is entitled to supply the Goods in parts. The term of delivery shall be extended by the time of existence of an extraordinary, unforeseeable and insurmountable obstacle occurred independent of the Seller's will and preventing the Seller from fulfilling its obligation under the Contract, in particular a natural disaster, war, mobilisation, riots and similar events, strike, lockout, delayed or denied official permits required to realize supply of the Goods (in particular export permit from the relevant authority in the country of the manufacturer of the Goods), or supply shortages on the Seller's part caused by a third party or force majeure and unforeseeable production outages. The Seller shall inform the Buyer about the occurrence of such obstacle immediately.
- 6.2 If the Buyer is late to pay the purchase price, the term of delivery of the Goods shall be extended by the time of the Buyer's delay. This shall be without prejudice to the arrangements contained in Article 10.2 of these GBC.
- 6.3 In the event of late supply of the Goods or a part thereof, the Buyer is entitled to require the Seller to pay a contractual penalty amounting to 0.03 % of the price (excl. VAT) of the late supplied Goods for each and every day of the delay, however not exceeding 3 % of the price (excl. VAT) of the unsupplied Goods.
- 6.4 If the Seller supplies a higher quantity of Goods than it is obliged to supply under the Contract, the Buyer is entitled to refuse to accept such excessive Goods upon acceptance. If the Buyer fails to do so upon acceptance of the Goods, i.e. if the Buyer fails to state such non-acceptance in writing in the delivery note or another document, it holds that the Buyer has accepted the



excessive amount of the Goods and is obliged to pay the purchase price for it as determined based on the unit price of the Goods agreed in the Contract.

- 6.5 If an extraordinary, unforeseeable and insurmountable obstacle occurred independent of the Seller's will prevents the Seller from fulfilling an obligation under a Contract, such an obstacle shall release the Seller from the obligation to compensate for damages and to pay the contractual penalty, however only from the moment of occurrence of the obstacle, regardless of whether the Seller is already in default at that time or not.

## **7 Packaging of Goods and method of agreed transport**

- 7.1 The method of packaging and transport shall be chosen by the Seller, unless agreed otherwise in the Contract.

## **8 Purchase price**

- 8.1 The purchase price of the Goods is stipulated in the Contract.
- 8.2 Unless the Contract explicitly stipulates otherwise, the purchase price is stated exclusive of VAT and does not include the cost of transport, cash on delivery or insurance.
- 8.3 The Buyer is not entitled to use promissory notes for payment. The Seller is not obliged to accept performance offered by a third party instead of the Buyer.

## **9 Invoicing, payment terms, reservation of title**

- 9.1 The Buyer is obliged to pay the purchase price in the manner agreed in the Contract.
- 9.2 Unless agreed otherwise in the Contract, the Buyer is obliged to pay the price for the Goods based on a pro forma invoice. If payment based on a pro forma invoice is agreed or applies, the Buyer is obliged to pay the purchase price to the Seller's account stated in the pro forma invoice. In the case of payment in cash, by cash on delivery or wire transfer after delivery, the Seller shall submit an invoice to the Buyer upon supply (delivery) of the Goods. Unless agreed otherwise in the Contract, the purchase price is due and payable in 14 calendar days from the date of the invoice and/or pro forma invoice. The Seller is also entitled to send invoices as well as pro forma invoices to the Buyer in an electronic form.
- 9.3 Invoices and pro forma invoices shall contain identification of the Seller and Buyer, their registered offices or domicile address, VAT ID of the Seller and Buyer (if the Buyer is a VAT payer and has indicated the fact in the Enquiry), specification of the type and quantity of the Goods, date of issue, amount of the purchase price, maturity date of the purchase price, amount of the price for transport, if agreed, and signature of a person authorized to act on behalf of the Seller.
- 9.4 The Seller shall only issue a correcting tax invoice (credit note) in the case of a justified complaint confirmed by the Seller in writing (where discount on the purchase price for defective Goods is provided or where incorrect or smaller amount of Goods is supplied). Payment of the correcting tax invoice (credit note) shall be made by the Seller within ten business days from receipt of the Buyer's request for payment sent to the e-mail address of the Seller's employee who informed the Buyer about the outcome of the complaint. The request must contain the bank account number, bank code and number of the credit note.
- 9.5 The Seller is entitled to unilaterally set off its receivables from the Buyer, including receivables before due, against the Buyer's receivables from the Seller, including receivables before due, all under any mutual relationships with the Buyer.
- 9.6 The Buyer shall only acquire title to the Goods by full payment of the purchase price including related cost (VAT, transport cost, packaging cost, etc.). Until the moment of full payment of the purchase price the Buyer is not entitled to dispose with the Goods without prior written consent in a manner that is in conflict with the fact that the Buyer is not the owner of the Goods; in particular, the Buyer is not entitled to firmly attach the Goods to another item or to alienate (sell) the Goods. The moment when the purchase price is credited to the Seller's bank account is considered the moment of payment of the purchase price, if the purchase price is paid by wire transfer.
- 9.7 If the Seller waives a debt of the Buyer, the Seller shall only do so in an explicit and written form (however not by e-mail or other electronic means); any other actions of the Seller cannot be considered waiver of debt.
- 9.8 The Seller is entitled to assign a receivable from the Buyer to a third party with or without the Buyer's consent.

## **10 Sanctions and withdrawal from Contract**

- 10.1. If the Buyer is late to pay the purchase price or a part thereof, the Seller shall be entitled to charge a contractual penalty to the Buyer in the amount of 0.05 % of the due amount for each and every commenced day of the delay; payment of the penalty



shall be without prejudice to the Seller's right for statutory interest on late payment and for compensation for material and non-material damage.

10.2 If:

- (i) the Buyer is more than 60 days late to pay a financial debt to the Seller, or
  - (ii) a motion to initiate insolvency proceedings in respect of the Buyer's assets is filed, or
  - (iii) the Buyer enters liquidation,
- the Seller is entitled to withdraw from the Contract. Any and all receivables of the Seller from the Buyer become due and payable as of the date of withdrawal from the Contract. In such case, the Seller is entitled to request immediate return of any unpaid Goods instead payment of the purchase price. The following shall survive withdrawal or other expiration of the Contract:
- (i) claims in respect of compensation for damages caused by breach of the Contract, (ii) claims under payment of contractual penalties or late payment interest according to the Contract or these GBC, (iii) Seller's financial receivables from the Buyer established on the basis of or in connection with the Contract, (iv) arrangements on the choice of law and resolution of disputes,
  - (v) provisions governing the relationships between the Seller and Buyer for cases of withdrawal from the Contract.

10.3. If the Buyer is late to take over the Goods, the Buyer is obliged to compensate the Seller for material and non-material damages incurred therefrom (in particular the cost of warehousing and storage of Goods); also, subject to prior notice, the Seller is entitled to sell the Goods in a suitable manner on the Seller's account pursuant to the provisions of Sec. 2126 of the Civil Code after granting reasonable additional time to the Buyer for the acceptance. The following is considered reasonable time: (i) 5 calendar days if the Goods are supplied in the territory of the Czech Republic and (ii) 14 days if the Goods are supplied outside the territory of the Czech Republic. The same also applies if the Buyer is late with the payment which the supply of Goods is subject to.

## 11 Final provisions

- 11.1. In an effort to improve the quality of services provided by the Seller in connection with the development of the legal environment and with regard to the Seller's business policy, the Seller is entitled to make unilateral modifications or amendments to these GBC. The Seller shall notify the Buyer of any such change via the website at [www.thermacut.net](http://www.thermacut.net) in sufficient advance.
- 11.2. If any of the provisions of the Contract or these GBC shows to be invalid or illusory (null) and if the reasons for such invalidity or nullity only relate to a part of the GBC or Contract that is severable from the other contents, only such part shall be invalid or null, if it can be assumed that the Contract would have been concluded even without such invalid or null part, if any of the parties had identified such invalidity or nullity in time.
- 11.3. The Seller is also entitled to refuse to perform the Contract or withdraw therefrom if the Buyer fails to properly and timely settle his debt under the Contract or another contract concluded with the Seller, particularly if the Seller has a financial receivable from the Buyer past due. For the avoidance of doubts it is explicitly stated that the right to refuse to perform according to the previous sentence also includes the right to refuse to remove a defect claimed by the Buyer.
- 11.4. If the Buyer is a natural person – business (entrepreneur), personal data shall be processed by the Seller in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council (General Data Protection Regulation) during the term of the contractual relationship and/or a specific term after expiration thereof. Processing of the Buyer's personal data by the Seller as the controller of personal data takes place on the basis of these legal grounds: contract performance/contract negotiations or compliance with the controller's legal obligations. Thus, consent of the Buyer is not required. Detailed information about the processing of personal data is available on the Seller's website at [www.thermacut.cz](http://www.thermacut.cz) or [www.thermacut.net](http://www.thermacut.net) under the Privacy Policy section, and in the Information on the processing of personal data of buyers sent to the Buyer. In this regard, the Buyer has all the rights of data subjects, in particular the right for access to the personal data, right for rectification or erasure, right to restriction of processing, and the right to object to the processing of personal data.
- 11.5. The Buyer as a customer may be sent electronic commercial communications within the meaning and subject to the conditions of the provisions of Sec. 7, paragraph 3 of Act No. 480/2004 Coll. on certain information society services, as amended, provided that the Buyer may refuse to give consent to such use of his electronic contact details (e-mail address) at any time, unless the Buyer has refused such use originally.
- 11.6. Any disputes arising out of the Contract or in connection therewith shall be finally resolved before the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic by three arbiters according to the court's rules. The arbitration proceedings shall be in the Czech language and the place of arbitration shall be the arbitration court in Brno. The above shall not apply to disputes where the Buyer is a consumer.
- 11.7. The Buyer assumes the risk of changing circumstances pursuant to the provisions of Sec. 1765, paragraph 2 of the Civil Code.
- 11.8. The Buyer is not entitled to assign a receivable from the Seller or the Contract without the Seller's written consent.
- 11.9. Expiration of an additional amount of time for performance granted by any of the parties to the other shall not result in withdrawal from the Contract even if the term is identified as final, unless the party explicitly connects such consequence with the granting of the additional term.



11.10. Commercial practices, if any, shall not take precedence over provisions of the law when stipulating the mutual rights and obligations; application of the provision of Sec. 1751, paragraph 2 of the Civil Code is excluded.

## 12 Validity and effect

12.1. These GBC became valid and came into force as of 1st January 2023 and cancel the previous version of the GBC.

Ing. Stanislav Sládek  
Ing. Dušan Loukota  
Registered agents of THERMACUT, k. s.

Attachment: Warranty document of 1st January 2023