

## ATHERM TERMS AND CONDITIONS

These general terms of business govern the relationship between Atherm and the Customer.

## GENERAL

Pursuant to Article L441-6 of the French Commercial Code (Code de Commerce), Atherm's general terms constitute "the basis of the commercial negotiation". Atherm cannot waive them in advance.

These general conditions of sale apply to all Atherm sales of Products or Services. Any order placed by the Customer by form means unconditional acceptance of these terms and conditions.

Neither the commencement of execution by Atherm nor the delivery of Products ordered may be considered or construed as an acceptance by Atherm of the provisions from documents coming from the Customer.

Any exception to any one of these general terms must be expressly accepted by Atherm in writing by Atherm's representatives. Such an exception only applies for the specific contract or order for which it was accepted. If Atherm fails to require performance at any given time of any one of the provisions of the general terms, this shall not be construed as a waiver of its right to require performance at a later date. If any one of the clauses of these general terms is invalid, this shall not affect the validity of the other clauses. For the purposes hereof, "in writing" means any paper document and any written document sent electronically or by fax.

## CONTRACTUAL DOCUMENTS - OFFER - ORDERS

## Offer

The Offer is a specific contractual document that detail:

- the Product' specifications that means the characteristics directly or indirectly by reference,
- these Terms and Conditions and,
- if any, Atherm User manual.

The offer remains valid for a period of 90 days except if another duration is stated in Offer.

Prices, information and characteristics set out in catalogues, memos, leaflets, website or other documents are provided for information purposes only and may not, under any circumstances, be construed as Atherm binding Offer. Moreover, Atherm reserves the right to modify or improve standard Product as it considers necessary, at any time and without prior notice. In such a case, the Customer may not claim any loss whatsoever.

## Orders

All orders must be placed in writing including by electronic means. The contractual relationships are settled only when Atherm has expressly accepts the order by mean of "Order acceptance". Orders may be accepted by any means of written communication issued by Atherm.

Orders handed over to Atherm's agents or representatives or taken by them are only binding on Atherm once it has accepted them in writing.

Orders accepted by Atherm are irrevocably binding on the Customer. Accordingly, the Customer may not cancel the Order without Atherm's prior express consent. In such a case, the Customer shall indemnify Atherm from and against all direct or indirect consequences arising therefrom, in particular the costs and expenses incurred for development and manufacturing of specific Product such as, without any limitation, studies, labour costs, work in progress, stocks and supplies. In all cases, Atherm shall not refund any down payments already made.

Order modifications, in particular about delivery times, quantities of Product, shall be submitted to Atherm for its express prior consent in writing. Atherm will inform the Customer about the consequences on the commercial terms and conditions.

## PRODUCT SPECIFICATIONS

The Products shall conform in all respects to the Product' Specification specified in the Offer. The contract is strictly limited to the Products stated in the Offer.

Atherm may modify the Product at its option provided that it meets the Specifications or similar modalities as stated in the Offer.

## CONFORMITY OF PRODUCTS - COMPLIANCE

Customer, as final user, shall always conduct set-up, compatibility and assembly analysis based on Specifications prior to order the Products. Atherm warrants that the Products conforms to the Specifications agreed in the Offer and in User manual if any.

The Customer is responsible for ensuring compliance with all regulations, including the ones related to employees or conditions of use, such as, without any limitation, noise, health and safety regulations in addition to Atherm User Manual if any or Offer conditions.

Any data or information related to « lifetime of Products » shall be considered as theoretical calculations. They may not be construed as a legal commitment or obligation Atherm may have and therefore shall not incurred any liability in connection with these datas.

Any output information given must be treated as the result of calculations and not as a performance level quantified and confirmed by tests as a result. Accordingly, said information is provided for information purposes only. The output is approximate and calculated on the basis of the theoretical properties of the Product and its components and may not be used as a basis for compensation or non-performance penalties or to refuse to accept the Product.

## NON-CONFORMING PRODUCTS

Atherm may not, under any circumstances, be required to take back the Products without a cause of non-conformity in regard to Specifications. The non-conformity shall be substantial, and so, it means, in addition to non-conformity to Specifications, such non-conformity may generate a blocking situation for the Customer.

Otherwise if Atherm does agree to take back the Products when there is not a non-conformity, they will be taken back only as a commercial initiative and not as legal obligation. This will not be considered as a modification of the terms and conditions.

In all cases, Products will only be taken back with Atherm's prior written consent and the Products must be only installed and tested. Products may only be taken back within fifteen (15) days of the date of delivery.

## PRICES

Prices listed in the Offer or Atherm's price lists remain valid for a period of thirty (90) days.

Any study accepted and conducted at the Customer's request for the production of special Product or Products may be invoiced to the Customer.

Prices:

- are always stated in euros, exclusive of taxes and ex works (EXW - in accordance with the Incoterms in force on the date on which the contract is concluded);
- never include packaging costs or the cost of transportation,
- are provided according of agreed quantities;
- never include any installation, assembly or dismantling;
- do not cover any specific controls nor validations.

In case of long-term delivery such as Frame-Agreement, if any event beyond its control occurs jeopardizing the equilibrium of the contract, Atherm may adjust its prices accordingly (in particular in the event of fluctuations in commodity prices, changes in customs duties, exchange rate fluctuations or amendments to legislation).

#### INTELLECTUAL PROPERTY RIGHTS

In case of specific projects (« Projects ») all studies, sketches, plans, Offers, photographs, illustrations, print-outs and documents of any kind handed over or sent by Atherm shall remain the exclusive property of Atherm at all times. The Customer acknowledges Atherm's industrial and intellectual property in all of Atherm's documents and Product. They must be returned to Atherm without delay on request. Even if a non-disclosure agreement or clause is not signed, they may not be disclosed or produced without Atherm's prior written permission. Any reproduction or display of all or part of one or more of the said elements, using any process whatsoever, without Atherm's written permission, shall constitute a breach of contract and may also constitute an act of infringement or unfair competition.

Any transfer or assignment of intellectual property rights shall be stated in a separate contract entered into between Atherm and the Customer. If studies are conducted at the Customer's request or on the basis of documents supplied by the Customer, and the Customer fails to place an order for Product thereafter, the costs incurred for the said studies may be invoiced to the Customer and the documents must be returned. Atherm's brands and name are protected by law. Any person using Atherm's brands or name on any medium whatsoever without Atherm's prior written consent may be stopped by any judicial initiated by Atherm.

#### CONFIDENTIALITY

The parties mutually agree to comply with a general confidentiality obligation covering all information (documents in any form whatsoever: discussion papers, plans, electronic data interchanges) shared in connection with the preparation or performance of this contract. The Customer acknowledges that any and all confidential information whatsoever relating to Atherm has been disclosed to it only for the purposes to enter into contractual relationship. However, the confidentiality obligation does not cover information that was already in the public domain when the contract was concluded and when information is already known to the Customer on a legal basis.

#### PAYMENT

Payment terms: Invoices must be paid within thirty (30) days of the invoice date, without any discount. Pursuant to Article L441-6 of the French Commercial Code (Code de Commerce), the time agreed may not exceed forty-five (45) days end of month or sixty (60) days as of the invoice date. This regulation shall not prevent the application of any shorter time for payment previously agreed.

Payment shall be made at Atherm's registered office, and unless otherwise agreed, the net amount should be paid, with no discount.

Atherm reserves the right to assign its receivables to a third party.

Pursuant to Article L441-6 of the French Commercial Code, in the event of late payment or a failure to accept and return a bill within fifteen (15) days of the date on which it is sent to the Customer, Atherm may, at its own discretion, charge late payment interest at the European Central Bank's most recently published refinancing rate plus ten (10) percentage points. It is agreed that said rate may not fall below an amount equal to three (3) times the statutory interest rate. In addition, in case of late payment, Atherm may terminate the contract, require the Customer to immediately pay the balance of the price and all invoices due, for any supplies, and Atherm will refuse to accept new orders.

The Customer expressly agrees not to automatically debit from Atherm's account or automatically invoice Atherm for any sums that have not been expressly acknowledged by Atherm as due. Any amount automatically debited shall constitute an outstanding sum and the foregoing provisions on late payment shall apply to the said amount and the Customer may be liable under the provisions of Article L442-6(I)(8) of the French Commercial Code.

#### RETENTION OF TITLE

Title to the supplied Products shall not pass to the Customer until it has actually paid the price in full, covering both the principal amount and any incidental charges. If the Customer fails to pay any instalment on time, Atherm shall request the possession of the Product supplied. Nevertheless, the risk of loss of or damage to the Product shall pass to the Customer upon delivery along with liability for any damage that may be caused by the Product.

#### DELIVERY

Delivery terms of Products are deemed to have been delivered when they are ready for collection at Atherm's premises. Risk in the Products passes to the Customer when notice is given that the Products are ready for collection. By accepting the Products, the Customer acknowledges the conformity and apparent or detectable defects unless it issues reservations in writing to the transporter and Atherm within forty-eight (48) hours.

Delivery time starts on the date on which Atherm definitively accepts the Order based on its previous remitted Offer, provided that the down payment if any has been made previously. If changes are made to the timetable agreed to an act or omission of the Customer, Atherm may demand an extra fee for the changes and corresponding reorganization. A new timetable shall be prepared, and the Customer may not charge Atherm any penalty or compensation in the event of a delay following its breach.

If Atherm fails to meet the delivery times agreed by the parties, where special agreements have been agreed in writing for penalties, the said penalties may not, under any circumstances, exceed 0.5% per full week late, capped at 2% of the value of the late Product to be delivered. Late delivery penalties may only be applied if the Customer has shown that the delay was caused exclusively by an act or omission of Atherm and if in addition it caused a real loss able to be documented by Customer. The said penalties are liquidated damages and release Atherm from any and all liability and no other form of compensation shall be sought.

Atherm shall be released, by operation of law, from any commitment relating to delivery times if the Customer fails to comply with the payment terms or a force majeure event occurs, as defined below.

Unless otherwise agreed, a late delivery shall not allow the Customer to cancel the Order.

#### WARRANTY AND LIABILITY

The contractual warranty and Atherm's liability are excluded in the following cases:

- in the event that Products are others than original Products, or materials supplied by another company than Atherm;
- in the event that assistance, repairs or alterations are performed by the Customer or a third party without Atherm's prior consent,
- if the Products are not used according to its intended use as described in the User Manual or Offer
- in the event that the Products are not stored properly by the Customer,
- in the event of negligence, a lack of surveillance, a lack of maintenance or poor assembly,
- if the Customer is not up to date with its payments,
- any wrong or incomplete information provided to Atherm not able to propose the appropriate Product to the Customer

Under the warranty, Atherm is required to correct any malfunction caused by a defect in the design, materials or production (including assembly if it is also responsible for it) within the limits of the provisions set out below. The warranty only covers original Products bearing Atherm's brand or marketed by Atherm.

Unless otherwise agreed, the warranty only applies to hidden defects at delivery that appear within six (6) months of the date of delivery. If the Products are used in several equipment or team not prior trained, the said period is reduced to three (3) months.

The warranty is the replacement or repair of the defective Products at Atherm' option. If a claim is made under the warranty, Atherm is solely required to replace the parts that it has acknowledged as defective or, at its option, to repair the said parts in its workshops. Atherm reserves the right at its option to modify the Product in order to fulfil its obligations, where necessary. The Customer shall give Atherm every opportunity to check said defects and correct them. If Atherm considers that repairs need to be carried out on site, the terms and conditions governing the repairs under the warranty shall be agreed and, in all cases, the Customer shall bear the costs of the preliminary and research work or dismantling or reassembly work rendered necessary owing to the circumstances in which the said Product is used or set up and the elements that were not included in the relevant supply. All transportation costs related to Products or defective parts including the return of the repaired or replaced parts or Products shall be expressly prior agreed by the Parties, otherwise, the Customer shall bear them.

Replacement and repaired parts are covered by the warranty on the same terms and conditions as applied for the original Products and for a further identical period. However, in the event that a part or component is changed, this shall not extend the warranty period for the set or sub-set, under any circumstances whatsoever.

To make a claim based on the warranty, the Customer must inform Atherm of the defects alleged in the Product, in writing and within no more than forty-eight (48) hours of the occurrence of the said defects, supply all available evidence of the existence of the said defects and give Atherm every opportunity to check the existence of the said defects and correct them.

If for any reason, it is established that Atherm was finally not liable and that the detected defect is not attributable to Atherm and cannot be claimed under the warranty, Atherm shall be entitled to demand payment of compensation for all costs incurred, including the cost of the response team, transport and the replacement or repair of the relevant parts. No compensation may be claimed, for any reason whatsoever, such as for the cost of the labour required for dismantling and reassembly, costs incurred due to Product downtime or operating costs, transport, accommodation or travelling costs or for incidents that may occur.

Atherm's liability is strictly limited to its compliance, or the compliance of its subcontractors, with the expressly agreed contractual Specifications. Atherm shall produce the Product or provide the service requested by the Customer in accordance with best industry practice.

Atherm's civil liability, for all claims other than personal injury or gross negligence claims, is limited to the amount of the supplies received on the date of performance. Atherm is not required to compensate the harmful consequences of breaches or defaults by the Customer or third parties in relation to the performance of the contract or damage caused by the Customer's use of technical documents, information or data issued by the Customer or imposed by the Customer. Atherm shall not, under any circumstances, be required to compensate direct and/or indirect non-material damage such as operating losses, loss of profits, loss of chance, disruption to its business or loss of earnings etc.

The Customer agrees to waive all rights of recourse against Atherm and Atherm's insurers and to procure that its insurers and third parties in a contractual relationship with it also waive all such rights, beyond the limits and exclusions determined in these general terms.

#### FORCE MAJEURE

Neither party may be held liable for any delay or default in performing one of its obligations under the contract if the said delay or default was directly or indirectly caused by a force majeure event. For the purposes hereof, "force majeure" shall be interpreted more broadly than the meaning given to it by the French courts, and shall include, for example:

- the occurrence of a natural disaster,
- an earthquake, storm, fire or flooding etc.,
- armed conflict, war, terrorist attacks,
- industrial dispute or total or partial strike at the premises of Atherm or the Customer,

- industrial dispute or total or partial strike at the premises of Atherm, service providers, transporters, postal services or public services, etc.
- mandatory order issued by the authorities (import bans, embargo),
- epidemic or pandemic affecting Atherm or its own Atherms, sub-contractors or service providers,
- operating accidents, broken machinery, explosion,

Each party shall notify the other party, as quickly as possible and by letter sent by registered post with acknowledgement of receipt, of the occurrence of a force majeure event of which it becomes aware and which it believes could affect the performance of the contract.

#### IMPORT AND EXPORT CONTROL

Certain components of Products may contain technology or software falling within the scope of the export control laws of the USA and the EU as well as the laws of the countries in which the Products are delivered or used - in particular regulations on defense or dual-use Products, under which export or import licenses may be required.

The Customer shall be personally responsible for all rules governing the export of components integrated in the Products and it shall not be considered as a Force Majeure. The Customer shall inform Atherm in advance of the existence of any such regulations applicable to its supplies or services imposing obligations on Atherm. The Product may not be sold, rented or transferred to restricted users or countries or users or countries that would use them in breach of export regulations. Atherm shall not be liable for any delays or other consequences arising from the application of the said regulations. Contractual deadlines shall be extended by the time required to obtain the permissions. In any case, the invoice must be paid in accordance with the terms defined herein or in the special terms and conditions.

#### DISPUTES - APPLICABLE LAW

The parties undertake to attempt to settle their disputes amicably before referring the matter to the relevant court. If an amicable settlement cannot be reached, any dispute relating to the formation, interpretation or performance of the contract shall be subject to the exclusive jurisdiction of the courts of the place of Atherm's registered office, even in the event of third party claims for indemnity or cases involving multiple defendants and regardless of the agreed places of payment or delivery.

The contract and any subsequent ancillary matters shall be governed exclusively by French law. If the contract involves an international element, the Vienna Convention of 11 April 1980 on the international sale of Products shall also apply. Any document issued by the Customer in a language other than French shall not be treated as a binding document, unless Atherm expressly agrees to treat it as a binding document.