

# General conditions of sale and supply

## 1. Validity

These General Sale and Supply Conditions shall apply to and be incorporated into any sales and supply agreement signed between ThermoKey S.p.a., Via Dell'Industria n. 1, 33050 Rivarotta di Teor (UD) (hereinafter, "ThermoKey") and the Client (hereinafter "the Client").

The application of any different term and condition whatsoever, even if applied by the Client pursuant to reference made to its own purchasing or contractual provisions, is expressly excluded. Any modification to the conditions herein, shall be endorsed by ThermoKey in writing, which will have the right to establish specific different conditions in each offer or order confirmation, and such specific condition will prevail over the present general conditions. Client acknowledges to be aware of the contents of these general sale conditions, available at [www.thermokey.com](http://www.thermokey.com).

## 2. Offers, orders and completion of the contract

ThermoKey's offers are not binding and mandatory.

The orders shall be valid only if issued in writing and sent to ThermoKey, also by telefax or by e-mail, to the addresses communicated by ThermoKey itself.

No contract shall be considered as made between ThermoKey and the Client until ThermoKey will have confirmed the Client's order in writing, through the order confirmation acknowledged by the Client.

After the order confirmation, the order cannot be cancelled, without ThermoKey's written consent.

## 3. Characteristics of the Products – Modifications

Any information or data relating to features and/or specifications of the products contained in dépliants, price lists, catalogues and similar documents are indicative and not binding.

ThermoKey reserves the right of making any change to the products, which, without altering their essential features, appear to be necessary or suitable.

In case of products not included in the catalogue, ThermoKey reserves the right of making approved in writing by the Client the structural project before starting the manufacturing.

Any costs or expenses due to any extra-catalogue change of the product or subsequent to the approved structural project, as requested by the Client and considered feasible by ThermoKey, will be totally born by the Client.

The Client will bear also any other modification, integration, service or costs and expenses requested by the Client and not expressly included in the order confirmation.

## 4. Prices and payments

Unless otherwise agreed, price is fixed in the order confirmation and has to be considered in Euro, for, each unit of Product, always net from VAT and net from packaging and transport costs.

Terms of payment are indicated in the order confirmation and, if not indicated, are to be considered as payment in advance. Terms of payment are compulsory and therefore ThermoKey does not accept discounts, reductions or rounded figures.

Payments have to be made directly at ThermoKey headquarter or at one of the Banks indicated by ThermoKey.

Any default of the agreed payment terms will lead to the application, on the amount due thereof, of the interests calculated pursuant to the Italian Legislative Decree no. 231/2002, without need of any placing in default.

Payment shall be due in total as agreed, even in case of delay in delivery or in case of damage or loss, partial or total, during the transportation, not depending by ThermoKey.



## 5. Price revision

Price indicated in the order confirmation, except differently indicated, will be kept up to the delivery date indicated in such order confirmation. If the delivery date, following a request of the client or for reasons not depending on ThermoKey, is deferred, ThermoKey reserves the right to applying to the Client eventual prices increase, as well as eventual storage charge.

If the delivery term requested by the Client exceed 3 (three) months from the order date, ThermoKey reserves the right to revise the prices at the delivery date.

## 6. Delivery and transport

Except for otherwise indicated in the order confirmation, the products are sold Ex Works ThermoKey's factory.

All costs related to the transportation of the products are born by the Client.

Upon delivery to the Client, shipper, carrier or to whoever is in charge of the transportation and, in any case, when the products leave ThermoKey's factory, the liability of whole or partial loss of the products is transferred to the Client.

The delivery date is set out in ThermoKey's order confirmation. Unless agreed in writing, this date is indicative and not binding.

If ThermoKey, for reasons not depending by its will, is unable to deliver temporally or permanently the Products because of an event of force majeure and/or Act of God (i.e.: earthquake, strikes, lock-out, lack of means of transportation, authority ordinance, floods, etc.), ThermoKey will promptly inform the Client and will be excused and released from all delivery and indemnification obligations towards the Client, for the entire duration of the period in which the impediment and its effects last.

If the Client will not comply with any of the terms and conditions of the supply or sale, even in part, or if it changes its name and/or its ownership, or in case the Client delays payments, even towards other creditors, ThermoKey shall have the right to stop any delivery, even for confirmed orders, and to change the payment terms.

In any case, ThermoKey reserves the right to reduce the credit limit, if any, granted to the Client, if the general market conditions change, or new facts and/or circumstances change the actual business condition of ThermoKey. In the order confirmation is indicated if a packaging of the product is provided, and, unless differently indicated, the packaging is standard.

Extra packing has to be required previously by the Client and be confirmed in the order confirmation.

## 7. Warranty

ThermoKey gives a generic warranty for manufacturing fault of its products, for 24 months from the invoice date.

The warranty consists on and is limited to the repairing or substitution of the defective component or of the single defective part, provided, however, that they prevent the correct Product functioning and provided also that they exists since the origin.

The warranty does not cover and is not extended to defects or damages caused by the transport or caused by negligence in the use or by product direct or indirect manumission or caused by repairing, single components substitution, upkeeps made by non ThermoKey authorized subjects, or due to technical inexperience, or by way of any circumstances independent from ThermoKey will.

When warranty applies, cost for labour, travel and board expenses of the intervening personnel at the Client's premises or where the product is installed are at Client's charge.

The Client will promptly indicate to ThermoKey the place where the repair has to be conducted and all other technical information (such as model, products serial number, requiredtimes for the intervention, installation, installation's schema where the product is installed, indicated defect, complete address, telephone and fax numbers and contact persons of the company) and all necessary authorizationsin order to reduce the repair time and to simplify the identification and the solutions of the issues.

The Client, pain the forfeiture of the guarantee, has to notify to ThermoKey the defectiveness or the defects eventually found, within 8 days from their appearance, and however not beyond 12 months from the invoice date.

The warranty decays if the Client does not observe the payment conditions or if the breakdowns are caused by the Client itself, its employees or third person.

Goods manufactured by ThermoKey correspond to the enforced laws in Italy. The Client has to verify the goods correspond to the law enforced in the goods destination country and it has to inform ThermoKey, in good time and however before the goods shipment, of the eventual changes to brought. In this case, ThermoKey could reject the order or charge the heavier expense to the Client.

Any liability arising from or connected to the products and due to any events subsequent of the delivery, included damages to persons or goods (also when goods are parts or accessories to the equipment) will be exclusively born by the Client.

The compensation for direct or indirect damages can never exceed twice the price of sold goods.

## **8. Goods Return**

Except for specific cases accepted in writing, ThermoKey does not accept any goods return. Before any return procedure, the Client has to make a written claim and the good return has to be previously authorized in writing by ThermoKey.

Cost and expenses of the return are born by the Client and the goods are carriage paid to ThermoKey's factory.

ThermoKey reserves the right to inspect the returned goods to verify the warranty applicability and, in case of verification of a fault due to ThermoKey, it will provide to substitute the defective products, or to issue a credit note, only if the warranty is still valid. On the contrary, the goods will be sent back to the Client with transport charges to be paid by the Client itself.

## **9. Claims and complains**

The Client shall inspect the delivered products and notify ThermoKey, in writing, of any defects found or that may be found upon a preliminary inspection, or any other claim related to the products. If the Client fails to make such notification within 8 (eight) days from the delivery, the products will be deemed as finally accepted and in compliance with what set forth in the contract, provided, however, that the Client can report any not evident defect within 12 (twelve) months from the invoice date; in any case the notification of the defects must be communicated to ThermoKey no later than 8 (eight) days from the discovery thereof, and the Client sole and only remedy will be limited to the warranty provision as set forth above.

It is understood that possible objections concerning part of the goods delivered or a single shipment of the same shall have no effect on the rest of the order nor on the payment of the goods already received and not promptly challenged.

## **10. ThermoKey's Intellectual Property**

The Client expressly recognizes that trademarks, commercial names or other distinctive marks on the goods are in the exclusive property of the ThermoKey and will not be altered, changed, removed or cancelled in any manner.

The Client has the limited right to use trademarks, commercial names or other distinctive marks, as well as other industrial exclusive right or Know how (productive or commercial) associated with the goods - which nonetheless remain in the exclusive property of ThermoKey - to the limited purpose of the resale of the goods to the final consumer. Any other utilization of the ThermoKey Intellectual Property by the Client, if not expressly granted by ThermoKey in writing, will be considered an infringement of the exclusive rights of ThermoKey, and a breach of contract, and will be therefore prosecuted.

## **11. ThermoKey's Industrial Property**

The documents, drawings, data and information (both in written papers and on electronic support) which should be delivered to the Client, remain exclusive property of ThermoKey and constitute a support for a better representation of the product and are significant of the general performances of the product itself.

The Client engages itself not to reproduce them, neither to disclose them to a third party, and he engages himself to undertake the proper precaution towards staff in order to grant the above protection.

## **12. Sales with property reserve**

ThermoKey reserves the ownership of the products, paid by instalments or deferred and the ownership will be transferred to Client only on completion of the entire payment, ex Section 1523 of the Italian Civil Code, provided

however that all the risks connected to the products are transferred to the Client at the delivery date.

### **13. Governing Law - Jurisdiction**

The sales contract shall be governed and construed in compliance with Italian law.

The Court of Udine – Italy - shall have the exclusive jurisdiction in any dispute arising from or in connection with the sale or supply relationship, its agreement, performance or breach whatsoever.

### **14. Information on handling of personal data**

Pursuant to article 13 of Italian Legislative Decree no. 196 of 2003, ThermoKey informs that it will handle the personal data of Clients, suppliers, collaborators and persons who have voluntarily provided their personal data, directly or indirectly, by phone fax or e-mail.

ThermoKey guarantees that the processing of personal data will be carried out in compliance with the fundamental rights and freedom, as well as the dignity of the interested part, with specific attention to privacy, personal identity and the right to personal data protection.

All details communicated by the interested parties are utilized exclusively to fulfill activities related to ThermoKey's business, such as the supply of products and services necessary, in particular: (i) to register personal data and database processing of the company; (ii) to issue shipping papers, invoices and credit notes; (iii) to issue estimates and offers to present and/or future Clients; (iv) to request offers from present and/or future suppliers; (v) for the management of ordinary accounting and VAT; (vi) to manage proceeds and payments; (vii) to process technical or commercial information regarding Client satisfaction on the quality of the services and products supplied, to improve Client orientation and necessities; (viii) to exchange information concerning trading, administrative, commercial activity of the company by phone, mail, courier, telefax, e-mail and via reserved areas of the web-site; (ix) to comply with the obligations set forth by law, regulations, Community law and civil and tax rules.

Personal data voluntarily provided to ThermoKey by Clients, suppliers, collaborators will be kept confidential.

Upon necessity, personal data of the interested parts may be communicated to: (i) all subjects legally authorized to possess access to such data; (ii) ThermoKey's collaborators, within their duties and/or contractual obligations with same, related to the commercial relationship with the interested parts; (iii) post offices, shippers and couriers for the delivery of documents and/or goods; (iv) any persons and/or private or public entity (law, consultancy and tax firms, firms for the calculation and issuance of pay packets, juridical courts, chambers of commerce, labor exchanges or offices, etc.), whenever the communication is deemed necessary or useful to carry out ThermoKey's business in the manner more suitable for the above mentioned scope; (v) banks for the management of the proceeds and the payments deriving from the drawing up of the agreements. In such cases only the essential personal data will be disclosed, in compliance with the purposes they are communicated for.

The communication of personal data by whoever intends to start up a commercial relationship with ThermoKey, even though limited only to requesting information on ThermoKey's activities and/or services, is non compulsory, but the failure to do so may cause the interruption of the relationship or affect its regular development and legal and fiscal compliances. The data is kept at the head office of ThermoKey for the period of time foreseen by fiscal and civil law.

The handling of personal data is carried out both by using paper support and data processing, in keeping with measures of protection to guarantee security and privacy.

The holder of the handling of the personal data is ThermoKey – Via Dell'Industria n. 1, 33050 Rivarotta di Teor (UD), represented pro tempore by a member of the board of directors appointed thereto. The person appointed for the responsibility of handling personal data is appointed on a time by time basis by the holder of the handling.

The interested part has the right to obtain confirmation of the existence of its personal data, even if not registered yet, and the communication of the same in a comprehensible form.

The interested part also has the right to ask for and obtain the indication of: (i) the source of the personal data, the scope and the handling procedure; (ii) the reasoning applied in case of handling through electronic devices; (iii) the basic data for the identification of the holder, responsible persons and representative appointed pursuant to article 5, section 2, of Italian Legislative Decree no. 196/2003; (iv) the persons or category of persons to whom personal data may be communicated or may have access to the same as authorized representative for Italy, agent or

designate thereof.

The interested part has the right to ask for and obtain: (i) the updating, amendment or, whenever deemed opportune, the integration of the data; (ii) the cancellation, the transformation into an anonymous form or the impediment to use the data handled in violation of the law, including the data that does not need to be kept in relation to the scope for which the data has been gathered or subsequently handled.

The interested part has the right to, totally or partially, oppose: (i) the handling of personal data regarding the same for legitimate reasons, even though linked to the purpose of the collection; (ii) the handling of the part's personal data for the purpose of mailing advertising or direct marketing material, or to carry out market research or for infomercial communication.

The above-mentioned rights may be exercised upon an informal request addressed to the holder or one of the representatives, even through someone charged thereof. The request can also be forwarded by registered letter, telefax or e-mail.

Client's signature \_\_\_\_\_

Acceptance of the clauses of paragraph: 5, 7, 8, 9, 10, 12, 13.

Client's signature \_\_\_\_\_