

General Terms and Conditions of Sale and Delivery for the ThermoGenius™ Heat Exchanger for Consumers (as of November 2018) of the

ElringKlinger Kunststofftechnik GmbH

Etzelstraße 10

74321

Bietigheim-Bissingen

(hereinafter referred to as "**Seller**")

I. General Provisions

1. These General Terms and Conditions of Sale and Delivery apply exclusively to consumers within the meaning of § 13 BGB (German Civil Code, hereinafter referred to as "**BGB**") (hereinafter referred to as "**Buyer**").
2. The terms and conditions shall govern all contracts concluded between the Seller and the Buyer. They shall also apply if the Seller does not expressly refer to them in later contracts.
3. Supplements and amendments to contracts and these General Terms and Conditions must be made in writing in order to be effective. This also applies to changes to the written form requirement.

II. Conclusion of Contract

1. The Seller's "offers", in particular on the homepage, are subject to confirmation and non-binding. This shall also apply if we have provided the Buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents - also in electronic form - for which we reserve ownership rights and copyrights.
2. The order of the goods by the Buyer, e.g. by e-mail or letter, shall be deemed a binding contractual offer. Unless otherwise stated in the order, the Seller shall be entitled to accept this contractual offer within 14 days of its receipt. The Seller reserves the right to confirm receipt of the order by means of an "order confirmation". For the sake of clarification, it is pointed out that the order confirmation is not to be regarded as acceptance of the offer.
3. Acceptance of the contractual offer by the Seller can be declared either in writing (e.g. by order confirmation), in text form or by delivery of the goods to the Buyer (hereinafter referred to as "**conclusion of contract**").

III. Delivery and Packaging

1. The costs of shipment shall be borne by the Buyer. The costs incurred for shipment vary depending on destination and quantity and must be determined in each individual case.

2. The Seller is responsible for the packaging of the delivery items, unless otherwise agreed. Packaging costs will be charged to the Buyer.
3. The delivery period shall commence upon conclusion of the contract, but not before the Buyer has provided any documents, approvals, releases and other items to be procured by the Buyer and before receipt of an agreed down payment.
4. The delivery period shall be extended in case of force majeure, i.e. unforeseeable events beyond the control of the Seller. The same applies to labor disputes, in particular strikes and lockouts as well as unforeseeable operational disruptions, delays in the delivery of essential materials, insofar as such obstacles influence the delivery of the delivery item. This shall also apply if these circumstances occur at sub-suppliers. The delivery period shall be extended in accordance with the duration of such measures and obstacles. The Seller shall not be deemed responsible for the aforementioned circumstances even if they occur during an already existing delay. Such hindrances shall be notified to the Buyer immediately.
5. If the Seller culpably exceeds the delivery periods, he shall only be in default if the Buyer requests him to deliver again after setting a reasonable deadline. Claims for compensation for damage caused by delay shall be excluded in the case of simple negligence. Liability pursuant to VIII shall remain unaffected thereby.

IV. Scope of Delivery

1. The scope of delivery is determined by the respective contract.
2. We reserve the right to make changes to the delivery item which are attributable to improvements in technology or to legal requirements, provided that the delivery item is not significantly changed and the changes are reasonable for the Buyer.

V. Prices, Terms of Payment and Off-setting

1. All prices are net prices plus the applicable statutory value added tax.
2. Unless otherwise agreed, invoices shall be due for payment without deduction within 14 days of invoicing.
3. The Buyer shall only be entitled to offset if his counterclaims are adjudicated by a court in a non-appealable manner or undisputed by the Seller. The Buyer shall only be entitled to exercise a right of retention if his counterclaim is based on the same contractual relationship.

VI. Property Rights

Cost estimates, drafts, drawings and other documents shall remain the property of the Seller. These documents may only be made accessible to third parties with the prior written consent of the Seller.

VII. Liability

1. The Seller shall only be liable for damages arising from injury to life, limb or health or from the breach of essential contractual obligations (so-called cardinal obligations). This shall also apply for other damages based on an intentional or grossly negligent breach of duty by the Seller, his legal representatives or vicarious agents. Essential contractual obligations shall be deemed as such obligations whose fulfilments are necessary to achieve the objective of the contract.
2. In the event of a breach of essential contractual obligations, the Seller shall only be liable for the foreseeable damage typical of the contract and if such damage was caused by simple negligence. For the avoidance of doubt, this shall not apply to damages by the Buyer arising from injury to life, limb or health.
3. The restrictions of paragraphs 1 and 2 shall also apply in favour of the legal representatives and vicarious agents of the Seller if claims are asserted directly against them.
4. The limitations of liability resulting from paragraphs 1 and 2 shall not apply if the Seller has fraudulently concealed the defect or has assumed a guarantee for the quality of the item. The same shall apply if the Seller and the Buyer have reached an agreement regarding the specification of the delivery item.
5. The provisions of the Product Liability Act shall remain unaffected.

VIII. Retention of Title ("Erweiterter Eigentumsvorbehalt")

1. The Seller reserves the right of ownership of the delivery items until the price has been paid in full.
2. In the event of breach of contract by the Buyer, in particular default in payment, the Seller shall be entitled to withdraw from the contract and demand the return of the delivery items, the return of the delivery items and/or withdraw from the contract.
3. The Buyer may neither pledge the delivery items nor assign them as security. In the event of seizures, confiscations or other dispositions by third parties as well as the opening of insolvency or composition proceedings against the Buyer's assets, the Buyer shall immediately notify the Seller thereof and provide the Seller with all information and documents necessary to safeguard the Seller's rights. Enforcement officers or third parties shall be informed of the Seller's ownership.

IX. Data Protection

We may save and process any data relating to the relevant orders only to the extent permitted under applicable law.

X. Place of Jurisdiction and Applicable Law

The Laws of the Federal Republic of Germany shall apply exclusively with the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). The place of jurisdiction for all disputes arising from or in connection with these General Terms and Conditions of Sale and Delivery shall be Stuttgart/Germany.

XI. Miscellaneous

1. Transfers of rights and obligations of the Buyer require the written consent of the Seller in order to be effective.
2. The Seller is neither willing nor obliged to participate in any dispute resolution proceedings before a consumer arbitration board.