

General Terms and Conditions of Purchase of PINK GmbH Thermosysteme

As of: January 01, 2025

1. Scope of application, form

1.1 These General Terms and Conditions of Purchase ("GCP") of PINK GmbH Thermosysteme ("we"/"us" or "PINK") apply to contracts for the purchase of goods and digital products (such as software) ("Contractual Product") from entrepreneurs ("Supplier") – irrespective of whether the Supplier manufactures the Contractual Product itself or not.
1.2 The GPC shall also apply if within the scope of a new order in an ongoing business relationship if we do not explicitly refer again to the application of our GPC.
1.3 Deviating, conflicting or supplementary general terms and conditions of the Supplier shall only become part of the contract if and to the extent that we have expressly agreed to their application in writing. This requirement of consent shall also apply if the Supplier refers to its general terms and conditions in the order confirmation and we do not expressly object. Individual agreements and specifications, in particular in our order, shall take precedence over the GPC.
1.4 Legally relevant declarations and notifications by the Supplier in relation to the contract (e.g. setting of deadlines, reminders, cancellation) must be made in writing. Written form within the meaning of these GPC includes written and text form (e.g. letter, e-mail). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declaring party, shall remain unaffected.

2. Conclusion of contract

2.1 Our order shall become binding upon acceptance by the Supplier. The Supplier must confirm our order within a period of five (5) working days. Acceptance of an order may also be effected by commencement of performance. Acceptance of an order with changes to the service shall require our consent.
2.2 The Supplier is obliged to notify us of obvious errors (e.g. typing and calculation errors) and incompleteness of the order before acceptance so that we can correct or complete them; otherwise the contract shall be deemed not to have been concluded.

3. Delivery period and delayed delivery

3.1 The delivery period stated in the order is binding. The Supplier is obliged to inform us immediately in writing if – for whatever reason – he will likely not be able to meet agreed delivery periods.
3.2 If the Supplier is in default, we are entitled to demand a contractual penalty of 0.5% of the net price of the delayed Contractual Product per completed calendar week, but not more than 5% of the net price of the delayed Contractual Product. We reserve the right to claim further damages in accordance with statutory provisions, whereby the contractual penalty shall be offset against potential further damages. The contractual penalty may be claimed within the limits of the statute of limitations.

4. Performance and delivery

4.1 Without our prior written consent, the Supplier is not authorised to have the service owed by it performed by third parties (e.g. subcontractors). Even if such consent is given, the Supplier shall remain fully responsible to us for the subcontracted services as for its own.
4.2 Unless otherwise agreed in writing, the Supplier shall deliver the Contractual Product with proper packaging in accordance with Incoterms 2020 DDP to our place of business in Wertheim. In the case of technical equipment, components, systems and machines, the transfer of risk shall only take place after a corresponding functional test and confirmation of the functionality of the delivered products. If acceptance of the Contractual Product has been agreed, the risk is transferred to PINK upon acceptance. The Supplier shall arrange for the return transport of used packaging at his own expense.
4.3 Unless otherwise agreed in writing, PINK is not interested in partial performances.
4.4 The Supplier shall hand over the Contractual Product to a PINK employee in charge at the incoming goods inspection point and obtain a written acknowledgement of the handover. The delivery must be accompanied by a delivery note stating the date (issue and dispatch), content of the delivery (article number and quantity) and our order identification (date and number). If the delivery note is missing or incomplete, we shall not be responsible for any resulting delays in processing and payment.
4.5 The Supplier is responsible for obtaining all necessary permits for deliveries to us in good time. If the agreed delivery date is delayed by more than four (4) weeks due to a missing permit, we shall have the right to withdraw from the contract.

5. Prices and terms of payment

5.1 The price stated in the order is binding. All prices are exclusive of statutory VAT if the latter is indicated separately.
5.2 Unless otherwise agreed in writing in individual cases, the price shall include all services and ancillary services of the Supplier (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging and transport costs, including transport and liability insurance). The Supplier is not entitled to reimbursement of costs for offers or sampling. We shall only owe additional remuneration in the event of a separate written agreement.
5.3 PINK shall pay the agreed price within thirty (30) calendar days of complete delivery and performance and receipt of a proper invoice.
5.4 If PINK pays within fourteen (14) calendar days of receipt of the invoice, the Supplier shall grant PINK a 3% discount.
5.5 If PINK has agreed to an advance payment in individual cases, this shall be made against the provision of appropriate security by the Supplier in the form of a written, directly enforceable guarantee ("selbstschuldnerische Bürgschaft") from a bank or insurance company authorised in the EU, waiving the defence of avoidance ("unter Verzicht auf die Einrede der Anfechtung") (with the exception of wilful deceit) and the defence of set-off. The exclusion of the defence of set-off shall not apply if the Supplier's counterclaim is undisputed or has been legally established. The guarantee may not be limited to a specific period and may not be subject to any condition. Furthermore, the guarantor must declare that the law of the Federal Republic of Germany applies exclusively to disputes arising from such guarantee and that the place of jurisdiction is our registered seat. Furthermore, the guarantor must declare that the guarantee claim shall not become time-barred previous to the secured principal claim.
5.6 The statutory provisions shall apply to late payment. Interest on maturity interest ("Fälligkeitszinsen") shall not be owed.
5.7 We shall be entitled to rights of set-off and retention as well as the defence of non-performance of the contract to the extent permitted by law. In particular, we are entitled to withhold due payments as long as we are still entitled to claims against the Supplier arising from incomplete or defective services. The Supplier shall only have a right of set-off or retention on the basis of counterclaims that have been recognised by declaratory judgement or are at least ready for judgement or are undisputed.

6. Confidentiality and retention of title

6.1 We reserve all property rights and copyrights to illustrations, plans, drawings, calculations, implementation instructions, product descriptions and other documents that we provide for the preparation of offers or the provision of services. Such documents are to be used exclusively for the preparation of the offer and/or provision of the contractual service and are to be returned to us without request after completion of the contract and any copies thereof are to be destroyed. The information contained in such documents must be kept secret from third parties even after the contract has been fully executed. The confidentiality obligation shall only expire if and insofar

as the information provided has become generally known. This shall also apply to all business secrets obtained from the business relationship, in particular PINK's know-how. Special confidentiality and/or non-disclosure agreements and statutory provisions on the protection of secrets shall remain unaffected.

6.2 The above clause shall apply mutatis mutandis to our contributions and provisions for production, such as materials (e.g. software, finished and semi-finished products), tools, templates, samples and other items. The Supplier shall store objects of our contributions and provisions separately – as long as they are not processed – until their return and insure them to a reasonable extent against destruction and loss at the Supplier's expense.
6.3 Further processing (processing, mixing or combining) of objects of our contributions or provisions shall be carried out by the Supplier for us, so that we are the manufacturer - and thus also (co-)owner.
6.4 The transfer of ownership of the Contractual Product to us must take place unconditionally and without regard to the payment of the purchase price. If, in individual cases, we accept an offer of transfer of ownership from the Supplier conditional on payment of the purchase price, the Supplier's retention of title shall expire at the latest upon payment of the purchase price for the delivered Contractual Product. Even before payment of the purchase price, we remain authorised to further process and resell the Contractual Product in the ordinary course of business, in the case of resale with advance assignment of the resulting claim. All other forms of retention of title, in particular the extended retention of title, the forwarded retention of title and the retention of title extended to further processing, are excluded.

7. Spare parts

The Supplier warrants that it will supply the Contractual Product and, if relevant, spare parts at prices on market level for the expected service life of the Contractual Product, but at least ten (10) years from the respective delivery date on request within reasonable periods.

8. Defective delivery

8.1 In particular, the Supplier warrants that the Contractual Product has the agreed quality at the time of transfer of risk to us and is suitable for the use planned by us and known to the Supplier. The agreed quality may also result from the product description and information on the Contractual Product in the brochures, catalogues and other accessible documents as well as in advertising and marketing materials of the Supplier or the manufacturer (if the Supplier is not also the manufacturer).
8.2 We are not obliged to inspect the Contractual Product or make special enquiries about any defects upon conclusion of the contract.
8.3 PINK shall inspect the Contractual Products in accordance with this Section 8.3 for defects and give notice of recognised defects, unless the parties have agreed on an acceptance of the Contractual Products: PINK shall inspect Contractual Products immediately (i.e. within five (5) working days) after receipt of the goods for externally recognisable defects and externally recognisable deviations from the identity and quantity of the goods. Such defects shall be reported without undue delay. Notification of a defect discovered at a later date shall be deemed to have been made in due time and without delay if it is made within five (5) working days from the date of discovery. The date of dispatch of the notice of defects shall be decisive for its timely submission. If we discover defects in a Contractual Product, we shall be entitled to return the entire delivery.
8.4 The respective intended location of the system into which the Contractual Products are to be installed is the place of fulfilment for the Supplier's supplementary performance ("Nacherfüllung"). As a rule, this is the place where the item is located at the time of the notice of defects.
8.5 Subsequent fulfilment shall also include the removal of the defective Contractual Product and the installation of a defect-free Contractual Product, provided that the Contractual Product was installed in another item or attached to another item in accordance with its type and intended use before the defect became apparent; our statutory claim to reimbursement of corresponding expenses (removal and installation costs) shall remain unaffected. The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs as well as any dismantling and installation costs, shall be borne by the Supplier even if it turns out that actually no defect existed. Our obligation to pay damages in the event of an unjustified request to remedy defects shall remain unaffected; however, we shall only be liable in this respect if we have recognised or grossly negligently failed to recognise that no defect existed.
8.6 Without prejudice to our statutory rights and Section 8.3 the following shall apply: If the Supplier fails to fulfil its obligation to provide subsequent performance – at our discretion by remedying the defect (rectification) or by delivering a defect-free Contractual Product (replacement delivery) – within a reasonable period of time set by us, we may remedy the defect ourselves and demand reimbursement of the necessary expenses (and a corresponding advance payment) from the Supplier. If subsequent fulfilment by the Supplier has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or imminent danger of disproportionate damage), no deadline need be set; we shall inform the Supplier of such circumstances without undue delay, if possible in advance.
8.7 Our statutory warranty rights remain unaffected.

9. Cancellation and termination rights

9.1 In addition to the statutory rights of cancellation, PINK shall be entitled to cancel the entire or the unfulfilled part of the contract in case of
(a) significant deterioration in the financial circumstances of the Supplier occurs or threatens to occur and this jeopardises the fulfilment of his delivery obligation to us;
(b) of imminent insolvency in accordance with Sec. 18 InsO, insolvency or over-indebtedness of the Supplier;
(c) the Supplier applies for the opening of insolvency proceedings or comparable proceedings against its assets; or
(d) insolvency proceedings against the Supplier's assets are rejected for lack of assets.
9.2 In the case of a continuing obligation ("Dauerschuldverhältnis"), we shall be entitled to termination without notice instead of cancellation under Section 9.1.
9.3 If the Supplier has rendered a partial performance, we shall only be entitled to withdraw from the entire contract if we have no interest in the partial performance
9.4 The Supplier's liability for damages in accordance with the statutory provisions shall remain unaffected.

10. Rights of use, open source software, customised software

10.1 Upon conclusion of the contract, the Supplier shall grant us the worldwide, perpetual, non-exclusive, transferable right to use copyrighted works contained in the Contractual Product, in particular software.
10.2 The Supplier shall provide software including appropriate documentation that enables an averagely experienced user to use the software without further ado. We may make a reasonable number of backup copies of the software.
10.3 Unless otherwise agreed in writing, the Supplier shall ensure that the software does not contain any or only such Free Open Source Software ("FOSS") that does not conflict with the unrestricted exercise of the contractual rights of use by us and, in particular, does not trigger any special obligations in the event of further distribution of the software (copyleft effect). If the Contractual Product contains FOSS components, the Supplier is obliged to comply with all applicable FOSS licences and to grant us all rights and to provide us with all information that we require to comply with these licence obligations.
10.4 The Supplier must inform us in writing in good time, at the latest with the order confirmation, of any FOSS and any obligations arising for us. If obligations arise for PINK from the FOSS licences, we shall be entitled to cancel the order free of charge within two (2) weeks of

receipt of the complete information.

10.5 Insofar as the scope of delivery includes customised software created specifically for us and on our behalf, the Supplier shall grant us the worldwide, perpetual, exclusive, transferable and sub-licensable, comprehensive and substantively unrestricted right to use the software, in particular including the right to reproduce, modify, distribute, make publicly available and otherwise commercially exploit the software. The Supplier undertakes for a period of five (5) years from delivery to make changes/improvements to the software in accordance with our specifications against reasonable reimbursement of costs. Statutory or contractually agreed update obligations shall remain unaffected.

11. Liability

11.1 Unless otherwise agreed below, the Supplier shall be liable in accordance with the statutory provisions.

11.2 Insofar as claims are asserted against us by third parties under the product liability laws, the German Environmental Liability Act, tort law or other statutory provisions, the Supplier shall indemnify us against all claims if and insofar as it is responsible for the damage or the cause thereof was within its sphere of control and organisation. Within the scope of this indemnification obligation, the Supplier shall reimburse expenses arising from or in connection with claims asserted by third parties, including recall actions carried out by us. In particular, this also includes reasonable costs of legal defence. We shall inform the Supplier of the content and scope of recall measures – as far as possible and reasonable – and give him the opportunity to comment. Further legal claims remain unaffected. Subject to further obligations, the Supplier shall inform us immediately if specific circumstances become known with regard to the delivered Contractual Product which necessitate a recall or other measure by us or the Supplier and/or give rise to a relevant risk of product liability cases. Any statutory reporting obligations shall remain unaffected by this.

11.3 Furthermore, the Supplier shall indemnify us against all claims of third parties that result from the infringement of patents, copyrights, design rights, trade mark rights, rights to the use of names and other industrial and other property rights as well as applications for property rights (collectively "Property Rights") triggered by the contractual use of the Contractual Product, unless the Supplier is not responsible ("nicht zu vertreten") for the infringement. The indemnification shall include all expenses incurred by us in connection with such third-party claims, in particular reasonable costs of legal defence. In addition, we shall be entitled, at our discretion, to acquire a right of use with regard to the delivered Contractual Product from the rights holder at the Supplier's expense or to withdraw from the contract with the Supplier. Furthermore, the Supplier shall be liable for all consequential damages incurred by us as a result, in particular due to supply shortage or production disruptions caused thereby. Further claims due to infringements of industrial property rights shall remain unaffected.

12. Public liability with extended product liability

The Supplier shall take out and maintain business liability insurance with extended product liability with a lump sum cover of at least five million Euros (EUR 5,000,000) per personal injury/property damage, also covering indirect damage. Upon request, the Supplier shall provide us with immediate proof of the existence of insurance cover by means of a confirmation of cover from its insurer.

13. Statute of limitations

13.1 Unless a longer limitation period is stipulated by law, the Supplier shall be liable for defects that occur within thirty-six (36) months from receipt of the Contractual Product by us or from acceptance of the Contractual Product (if such is stipulated by law or contract). In the event of subsequent fulfilment, the period shall be extended by the time during which the delivery item cannot be used in accordance with the contract. The same deadlines apply to subsequent fulfilment.

13.2 To the extent we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period shall apply.

14. Compliance

14.1 The Supplier shall comply with all national, European and international legal provisions applicable in connection with the Contractual Product, in particular with regard to environmental protection including energy and waste disposal, health and safety at work, anti-corruption, anti-terrorism, human rights, product safety and data protection, export control, sanctions and embargo regulations in the version applicable at the time of delivery.

14.2 We are committed to the basic principles of corporate responsibility, integrity and ethical behaviour as set out in the PINK Code of Conduct for Suppliers (available at www.pink.de/SCOC). The Supplier recognises these basic principles.

14.3 The fulfilment of the obligations arising from this Section 14 are primary obligations of the Supplier. If he has not fulfilled his obligations under this Section 14 we shall be entitled to withdraw from the contract or to terminate the contract without notice if the Supplier fails to remedy the breach within a reasonable period of time set by us. Any further claims for damages shall remain unaffected.

14.4 The Supplier shall support us in complying with foreign trade regulations, in particular by informing us of the foreign trade classification of the delivered Contractual Product prior to conclusion of the contract. The Supplier shall inform us immediately before and during the entire term of the contract of any changes to the information provided by him. If we incur damage due to incorrect or incomplete information provided by the Supplier, the Supplier shall be obliged to compensate us for this damage, unless the Supplier is not responsible for the incorrect or incomplete information resulting in the damage.

14.5 The Supplier is responsible for ensuring that the Contractual Product can be disposed of according to type ("sortenrein entsorgbar") by using appropriate material labelling.

14.6 The Supplier undertakes to secure all information and data of PINK against unauthorised access, alteration, destruction or loss in accordance with the state of the art. This also includes protection against unauthorised transmission and other misuse. When backing up customer data, all precautions and measures in accordance with the currently recognised state of the art must be observed in order to archive and restore data in a loss-proof and legally compliant manner at all times.

15. Supply chains

15.1 The Supplier is obliged, both in relation to its own business operations and in relation to the subcontractor directly employed by it for the provision of services to take preventive measures in order to avoid (i) a violation of human rights, (ii) a violation of labour and health protection regulations or (iii) a violation of environmental protection regulations in accordance with the applicable statutory provisions by the Supplier itself or by its subcontractors and to identify violations or imminent violations. At our request, the Supplier shall provide us with written information on the preventive measures taken.

15.2 We are entitled to review the preventive measures taken by the Supplier at least once a year during normal office hours and after reasonable prior notice as part of an audit or to have them reviewed by third parties. The Supplier shall take appropriate measures to ensure that we can audit or have third parties audit the preventive measures taken by subcontractors with whom the Supplier maintains a direct contractual relationship in the event of justified suspicion of a violation of human rights or the statutory provisions on labour, health and environmental protection. The Supplier shall also endeavour to ensure that, in justified cases of suspicion, an audit or review of preventive measures is also made possible for indirect subcontractors, i.e. subcontractors with whom the Supplier does not maintain a direct contractual relationship. Such audits and inspections shall not release the Supplier from its obligations under this Section 15.

15.3 Should there be a breach of human rights or the statutory provisions on labour, health and environmental protection by subcontractor used directly or indirectly by the Supplier, the Supplier shall immediately seek to take suitable measures to remedy this breach. In addition, the Supplier is obliged to check the effectiveness of these remedial measures and to inform us of the violations and the remedial measures taken. Our right to extraordinary termination shall remain unaffected.

15.4 The Supplier is obliged to ensure that its employees regularly, but at least once a year, participate in suitable training on human rights, occupational health and safety and environmental protection issues. At our request, the Supplier shall provide us with appropriate evidence of this without delay.

15.5 In addition, we are entitled to demand further measures for the protection of human rights as well as compliance with labour, health and environmental protection regulations from the Supplier in its own business operations and with regard to the direct and indirect subcontractors used for the provision of services. The Supplier is obliged to implement such measures, unless the implementation of such measures is unreasonable for the Supplier.

16. Choice of law and place of jurisdiction

16.1 These GCP and the contractual relationship between us and the Supplier shall be governed by the law of the Federal Republic of Germany. The application of any international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods, shall be excluded.

16.2 The exclusive – also international – place of jurisdiction for all disputes arising from or in connection with the contractual relationship (irrespective of the legal basis) is our registered office in Wertheim or the general place of jurisdiction of the defendant. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.