1. General
1.1 Only these General Terms and Conditions of Sale apply to the contract and all business relationships with the Customer. Other conditions of the Customer’s do not become part of the contract, not even if we do not explicitly object to them. 1.2 Upon conclusion of the contract, including changes to this clause, must be made in written form. The Customer may invoke side agreements before or during conclusion of the contract only if we confirm them in writing without undue delay or if declarations issued by our employees are binding on us only if they have been confirmed by us in writing. 1.3 We are entitled to store electronically the data required for executing contracts.

2. Offsets, Retention, Assignments
The Customer’s offset and retention of payments only if the counterclaim is not disputed or has not been established by a final court judgment. We are entitled to transfer to third parties the rights and obligations implied by the contract, in particular, the claims.

3. Shipment Costs, Passage of Risk
3.1 The Customer bears the costs of transport, insurance and packaging and assumes responsibility for disposal of the packaging when it is no longer needed.
3.2 All risks pass to the Customer when goods to be delivered leave our place, even if we assume responsibility for shipment, export or setup / installation, or if the Customer is in default of acceptance.

4. Delivery Periods, Default of Delivery, Damages Due to Delay
4.1 Delays are understood to refer to delivery ex works. They begin when all technical questions that were open when the contract was concluded have been clarified, all documents such as drawings and approvals that the Customer is to provide have been received, all down payments have been made, and production can start (release for production).
4.2 The Customer is liable for the costs of in excess of delays for which we are not responsible insofar as these delays were caused by force majeure, strikes, lockouts, disruptions of operations, lack of supplies and/or delayed or omitted deliveries by our suppliers. The Customer is obligated to additional or changed performance which has been requested by the Customer.
4.3 Default of delivery by us presupposes, in all cases, a reminder letter from the Customer notifying us of the impending period of grace.
4.4 In respect to the consequences of default of delivery, our liability is limited to the damages which we could have predicted would be sustained for the type of contract in question when the contract was concluded, not more than 10% of the value of the goods. This limitation of liability does not apply in cases of intention, gross negligence and/or loss of life, injury, or damage to health. If the Customer, hears negative consequences of default of delivery, the Customer must inform us about this in writing without undue delay.
4.5 The provisions of this section also apply to agreed installation periods. The installation period does not begin until all preparatory work has been completed.

5. Prices, Payment Conditions, Collateral
5.1 Our prices are prices ex works exclusive of statutory value added tax and of packaging. If the partial delivery date, then § 315 BGB (German Civil Code) allows us to demand, in our fair judgment, a reasonable surcharge for increases in our costs before delivery.
5.2 If our prices have not been agreed, we charge for installation work at our regular installation rates. Fixed installation prices apply only to the work that has been agreed. Additional work and waiting time is charged at our regular installation rates.
5.3 In the absence of written agreements to the contrary, invoices are due for payment in euros immediately and without discount. Bills of exchange and cheques are accepted only with prior written agreement.
5.4 In a case of payment default or justified doubts on our part regarding the Customer’s creditworthiness, we may make individual delivery dependent on advance payment of the invoice amount for the delivery.
5.5 According to the contract, an additional small amount handling fee shall be charged if the delivery is to be ordered by the Customer or for orders placed by the Customer with an invoice value/order value (net of up to € 250.00).

6. Setup and Installation
6.1 Setup and installation are agreed, the Customer has to provide the following at the agreed site when the contract was concluded, however, not more than 10% of the value of the goods. This limitation of liability does not apply in cases of intention, gross negligence and/or loss of life, injury, or damage to health. If the Customer, hears negative consequences of default of delivery, the Customer must inform us about this in writing without undue delay.
6.2 In respect to the consequences of default of delivery, our liability is limited to the damages which we could have predicted would be sustained for the type of contract in question when the contract was concluded, not more than 10% of the value of the goods. This limitation of liability does not apply in cases of intention, gross negligence and/or loss of life, injury, or damage to health. If the Customer, hears negative consequences of default of delivery, the Customer must inform us about this in writing without undue delay.
6.3 Our liability for defects is basically limited to supplementary performance. 8.3 Our liability for defects is basically limited to supplementary performance.
8.4 If the Customer reports a defect but it turns out later, during our inspection or in the course of rendering supplementary performance, that this report was not justified, then we may demand compensation for all inspection and repair work in the amount of our applicable installation rates. Ownership of delivered goods which have been taken back and of parts which have been removed or replaced passes to us. 8.5 If we receive goods, the delivery period does not begin until all preparatory work has been completed, and production can start (release for production), and report all obvious defects without undue delay and all concealed defects without undue delay as soon as they are detected. Damages due to transport are to be reported to the entity responsible for transport. If these obligations to inspect the report are not observed, claims based on damages are barred later on.
8.6 Even if the Customer is not liable for the contract and/ or the installation and operation of delivered goods by the Customer or its assistants, nor are we liable for normal wear and tear. If the Customer wishes to use the goods for purposes other than those which have been agreed with us, then we are not liable for the suitability and dependable for these purposes.
8.7 We are liable for compensation for material and pecuniary damages only in cases of gross negligence, culpable obedience, and/or culpable violation of an essential promise. If the Customer has caused the damages to the goods themselves is limited to the damages which we could have predicted would be sustained for the type of contract in question when the contract was concluded.
8.8 Claims against us that are based on defects become statute barred one year after acceptance of the goods. The same applies to claims arising from secondary obligations and/or co-ownership which have not been confirmed by us as of the date of delivery. 8.9 We are liable for compensation for material and pecuniary damages only in cases of gross negligence, culpable obedience, and/or culpable violation of an essential promise. If the Customer has caused the damages to the goods themselves is limited to the damages which we could have predicted would be sustained for the type of contract in question when the contract was concluded.
8.10 Liability does not apply to liability due to fraudulent concealment of a defect, nor does it apply to liability under the product liability law, to liability in cases of loss of life, injury or damage to health, or in cases of culpable fundamental breaches of contract.
8.11 We are also not liable for damages or mistakes in installation work which are not related to the work commissioned by us or which pertain to installation of objects not delivered by us. The same applies if the defects are to be attributed to the quality of the materials or constructions which have not been confirmed by us as of the date of delivery.
8.12 If damages are not damages to the goods themselves, our liability is limited to the damages which we could have predicted would be sustained for the type of contract in question when the contract was concluded.
8.13 This limitation does not apply to liability due to fraudulent concealment of a defect, nor does it apply to liability under the product liability law, to liability in cases of loss of life, injury or damage to health, or to liability due to intentional or grossly negligent default.

9. Defects of Title
9.1 We are only liable for ensuring that goods from us are not protected by industrial property rights or originators’ rights of third parties in the country of the place where this is not known to us at the time of conclusion of the contract and/ or if the Buyer has paid the costs for these constructs, etc. The Customer may use the said constructs, etc. in the manner that has been agreed with us. The Customer may not introduce goods or have them produced except as we have consented to this in writing.
9.2 When we deliver goods in accordance with constructs the Customer prescribes, the Customer guarantees to us that these constructs do not violate any industrial property rights or other rights of third parties. The Customer shall pay us compensation for all damages that result from infringements by us of any such rights.
9.3 All knowledge the Customer receives from the business relationship shall be kept secret by the Customer from third parties unless it is obviously generally known.

10. Industrial Property Rights, Maintenance of Seigneur
10.1 We retain ownership and all industrial property rights and originators’ rights to our constructs, samples, diagrams, technical documents, cost estimates and offers, as far as the Customer is in default of acceptance.
10.2 When we deliver goods in accordance with constructs the Customer prescribes, the Customer guarantees to us that these constructs do not violate any industrial property rights or other rights of third parties. The Customer shall pay us compensation for all damages that result from infringements by us of any such rights.
10.3 All knowledge the Customer receives from the business relationship shall be kept secret by the Customer from third parties unless it is obviously generally known.

11. Spare Parts
If the Customer does not assign an obligation on our part to keep a supply of spare parts, this obligation is limited to a period of five years beginning with acceptance of the goods delivered.

12. Place of Fulfillment, Place of Jurisdiction, Choice of Law
The place of fulfillment is our legal domicile in Wertheim. The place of jurisdiction is exclusively Wertheim / Mosbach or the courts responsible for the customer’s legal domicile, as we may choose. The applicable law is German law, but application of UN sales law (CISG) is barred.

General Terms and Conditions of Sale of PINK GmbH Thermosystemes
As of: November 01, 2020