robatherm
the air handling company

Terms and Conditions of Purchase

1. General

1.1 robatherm GmbH + Co. KG (hereinafter referred to as "robatherm") places orders exclusively under the following Terms and Conditions of Purchase. They shall apply to all orders unless expressly agreed otherwise in writing. By accepting the order, the supplier declares his/her agreement with robatherm's Terms and Conditions of Purchase.

1.2 The supplier's Terms and Conditions of Business are hereby expressly contradicted. Contrary or deviating terms and conditions of the supplier shall not become part of the contract unless robatherm has explicitly agreed to their validity in writing. Acceptance or the payment of goods by robatherm, even if robatherm is aware of conflicting or deviating terms and business conditions, shall not constitute consent.

1.3 These Terms and Conditions of Purchase shall (in case of current business relations) also apply to future orders, even if robatherm fails to refer to them expressly.

2. Order, Order Confirmation and Order Content

2.1 The supplier shall promptly confirm the order in writing. The order shall no longer bind robatherm if the written order confirmation is not received by robatherm within eight days after the order has been sent.

2.2 The supplier shall strictly comply with the robatherm specifications provided to him/her by robatherm, which were communicated to him/her when ordering, and shall observe all the details and data provided. This applies particularly to the end-user's requirements concerning the goods, information concerning application and use of goods, location of any installation (e.g., geography, sea level, and climate), and other external circumstances and peripheral such as pressure and temperature conditions.

2.3 If the supplier has reservations about the type of performance requested by robatherm, he/she shall immediately inform robatherm.

2.4 The supplier shall immediately check the technical drawings, plans and calculations submitted by robatherm for carrying out the delivery or service. Should documents be missing or there are doubts concerning their correctness, robatherm shall be informed immediately.

2.5 All information provided by the supplier in his/her offers, technical specifications, brochures, software, etc. is guaranteed and is deemed to be binding information. The supplier shall provide all deliveries or services per the recognized rules and the latest state of the art. In addition, all official and technical regulations and guidelines shall apply in their currently valid version (e.g., the German TÜV, UVV, VDE-Regulations, EU-Machinery Regulations).

2.6 Insofar as the supplier provides drawings, calculations, and other technical documents relating to the contract item within the order's scope, the supplier shall be obliged to transfer ownership of them free of charge to robatherm. This shall not affect the documents' intellectual property rights. robatherm or third parties engaged by robatherm may use the documents without restriction and free of charge concerning work or modifications to the delivery item.

2.7 robatherm shall be entitled, even if no delay exists, to suspend or cancel the order provisionally, e.g., if the robatherm customer cancels or changes his/her order. robatherm shall pay the supplier that part of the price corresponding to work performed on the ordered item before suspension or cancellation. The supplier shall not be entitled to claim damages.

3. Delivery Time

3.1 Delivery time starts from the date of the order request. The agreed delivery dates and deadlines are binding and must be observed without fail. Receipt of the goods by robatherm or the delivery address designated by robatherm shall be decisive for compliance with the delivery date or delivery period. The supplier is obliged to notify robatherm of dispatch prior to the goods being dispatched, enabling robatherm to deliver the goods.

3.2 Suppose the supplier discovers that he/she is unable to deliver or perform on time in whole or in part, the supplier shall immediately notify robatherm, specifying the reasons and the probable length of the delay, and request that a new delivery time be set. The supplier shall be liable for all costs and damages in full for any damage caused by the delay, without the need for robatherm to place him/her in default. Unconditional acceptance of the delayed delivery or service does not imply a waiver of robatherm's compensation claims due to the delay.

3.3 If the supplier is in default, robatherm is entitled - without prejudice to statutory claims for damages - to claim for each calendar day after the occurrence of default lump-sum default damage of 0.1% of the net order value of the supplies or services the supplier is in default of, but not more than 5% of the total net order value. The acceptance of a late delivery or service does not constitute a waiver to assert a contractual penalty.

3.4 The period granted to robatherm for acceptance of the delivery or service shall be appropriately extended in the event of unforeseen hindrances and operational disruptions beyond robatherm's control and responsibility, which influence robatherm's interest in the supplier's performance. Correspondingly, the same shall apply if such circumstances occur at robatherm's customers. In these cases, robatherm is entitled to postpone acceptance of the delivery or service for the duration of the hindrance plus a reasonable lead time. If the hindrance lasts longer than two months, robatherm is entitled to withdraw from the contract. The supplier shall have the same right after setting a reasonable grace period.

3.5 All deliveries shall be made DDP (Incoterms 2020) to the delivery address indicated by robatherm in the order, including unloading at the supplier's expense. In case of mere delivery of goods, the risk shall pass to robatherm when a person authorized by robatherm has acknowledged receipt. In the case of deliveries of goods with installation or assembly by the supplier, the risk shall pass after smooth commissioning or acceptance by robatherm or the robatherm customer.

4. Delivery and Pricing

Prices are all fixed prices. They include all expenses connected with the deliveries or services provided by the supplier, packaging, and freight costs in particular.

5. Payment

5.1 Payment shall be made at the robatherm's discretion, either within 14 days with a 3% discount or within 30 days net. It shall not have any influence on warranty claims and the periods applicable to it.

5.2 Payment periods shall commence upon receipt of invoice, but not before proper receipt of goods or, in the case of services, not before their acceptance, and, if documentation such as drawings, test certificates, etc., are part of the scope of services, not before their contractual handover to robatherm.

5.3 Delayed payments due to incomplete or incorrect invoice details shall nevertheless entitle robatherm to deduct a discount.

5.4 Every payment is subject to auditing. If shortcomings are detected during acceptance, robatherm shall be entitled to withhold an appropriate amount from the invoice until such deficiencies have been remedied.

6. Shipping, Risk, Installation

6.1 Shipping takes place via the fastest route. Shipping costs, specifically packaging costs and freight charges, and the costs of collection and packaging disposal shall be carried by the supplier unless otherwise agreed. If it has been agreed that robatherm bears the freight costs, robatherm will assume only the most favorable freight charges. All costs incurred up to transfer to the carrier, including loading and freight forwarding charges, shall be borne in any case by the supplier.

6.2 Each shipment must be accompanied by a delivery note containing the order's number, details, and date. Waybills, parcel labels, etc., must contain identical information and match the delivery note. The supplier shall be liable for any transport damages caused to robatherm due to non-compliance with the above provisions.

6.3 The supplier bears the dispatch risk until the goods have been received in full by robatherm or the destination designated by robatherm, i.e., up to the completion of the vehicle's unloading process at the place of delivery.

6.4 If the supplier's services include installation, manufacture, or assembly of ordered parts, the supplier shall inform him/herself about the location and nature of the installation place. He/she must provide the tools, equipment, and scaffolding required for the installation and the necessary workforce at his/her own expense. The supplier shall be liable for any theft or other loss or damage of the goods to be installed and the installation tools.

7. Invoicing

7.1 The invoice shall be single issued, indicating the order references.

7.2 If the order references are not entirely identifiable in the invoice, the invoice will be returned to the supplier and will be regarded as not yet issued.

7.3 Invoices for any partial deliveries or services not agreed with robatherm shall only be accepted effective from the date on which the full delivery or service is completed.

7.4 A separate invoice shall be issued for each order.

8. Warranty Claims

8.1 Unless otherwise agreed, in the case of faulty goods, robatherm's rights shall be governed by the statutory provisions as per the German Civil Code (§§ 434 ff or § 650 BGB).

8.2 In supplement to the statutory provisions, a material fault is also deemed to exist if the goods do not have the properties that robatherm can expect, according to the supplier or manufacturer's product description. In this case, it shall be sufficient if the product description was provided to robatherm following contract conclusion (e.g., together with the goods). Concerning the quality of the delivery or service owed, reference is also made to No. 2.5.

8.3 The supplier is obliged to reimburse robatherm for costs incurred in connection with material deficiency, including those legitimately charged to robatherm by their customers, within the scope of their statutory or contractual liability. This mainly includes such costs incurred during troubleshooting, removal of the defective part and installation of the spare part, and expert's, transport and sorting costs. This also includes costs incurred at the location to which the goods have been delivered.

8.4 Upon the arrival of the goods, robatherm will only inspect them for apparent damage, particularly transport damage, discrepancies in appearance, and quantity. robatherm shall promptly notify the supplier of apparent damages to the goods. robatherm is required to report, without delay, the supplier of any deficiencies that are not obvious as soon as they have been detected under proper plant operating conditions. In this respect, the supplier waives the objection of delayed notice of claim. Payment shall not be deemed acceptance of the goods being compliant with the contract and free of deficiencies.

8.5 Without prejudice to other legal claims, the period of limitation for warranty claims shall be six years for items intended for a building that has caused its shortcomings. Three years and two months for all other deliveries, from the time of handover.

8.6 Upon detection of any defects, the limitation period shall be suspended. If the supplier fulfills his/her obligation of subsequent performance, the limitation period for these parts shall begin anew under No. 8.5.
In the event of rectification, the supplier shall comply with the recognized rules of technology and all applicable statutory provisions and regulations and guidelines of authorities, professional associations, and trade associations at the time of rectification.

8.7 For each fulfilled order, the supplier guarantees the availability of spare and wear parts for a period of ten (10) years after full delivery.

8.8 In urgent cases or if the supplier is in default of his/her obligations, robatherm is entitled to procure a replacement or remedy the shortcomings or damage at the supplier's expense or have them remedied.

9. Right of Revocation

9.1 robatherm may withdraw from the contract if the supplier cannot supply the goods or services or parts thereof by the agreed date. If the supplier can only effect partial deliveries or services, robatherm reserves the right to choose between revocation and purchase price reduction.

9.2 Suppose there is a delay in performance and robatherm grants the supplier who is in default a corresponding grace period with the express declaration that acceptance of the delivery or service will be refused after this period's expiry. If the grace period is not complied with, robatherm shall be entitled to revoke the contract.

9.3 In the event of contract revocation, the supplier is obliged to pay damages if robatherm is faced with costs that would not have been incurred if delivery or service had been on schedule or of the required quality. These include replacement deliveries or services of a third party at higher prices, own additional costs such as overtime and night surcharges, express freight and contractual penalties, which robatherm has to pay to customers, resulting from inadequate or late deliveries or services of the supplier.

10. Retention of Ownership

Upon acceptance by robatherm, all deliveries become irrevocably binding. Any (extended) retention of ownership is not recognized. However, the supplier affirms that there is no retention of ownership of the delivered goods.

11. Code of Conduct, Supply Chain

11.1 The supplier fulfills the obligations resulting from the requirements of robatherm's Code of Conduct, available under www.robatherm.com. The supplier actively implements the values and principles contained in this Code of Conduct not only in his/her company but also in his/her own supply chain.

11.2 robatherm is entitled to verify the supplier's compliance with the Code of Conduct in connection with the supplier's delivery or service for robatherm, for example by inspecting relevant documents and/or by making on-site visits.

11.3 The supplier shall immediately inform robatherm in writing if a violation of the Code of Conduct should have occurred in his/her business operations and if the violation is related to his/her delivery or service for robatherm. If the breach of duty is not remedied by the supplier within a reasonable period of time, robatherm shall be entitled to terminate or withdraw from the contract with immediate effect after the unsuccessful expiration of a reasonable grace period. Grave violations by the supplier are considered a material breach of the respective contracts and entitle robatherm to withdraw from the contract or terminate it without notice.

12. Confidentiality

12.1 The supplier agrees to keep all information from the cooperation confidential, unless it is generally known, legally acquired from third parties or independently developed by third parties, and to use it exclusively in connection with the contract purpose. They shall subsequently be returned to robatherm unsolicited or be destroyed. The protected information mainly includes technical data, illustrations, drawings, calculations, prices, and information on products and product developments and all company data. In particular, the supplier shall refrain from commercially exploiting or imitating such information him/herself or through third parties beyond the purpose of the contract (in particular by way of "reverse engineering") or applying for industrial property rights. robatherm reserves all the property rights and copyrights to the protected information.

12.2 Furthermore, the supplier is obliged to keep strictly confidential all illustrations, drawings, calculations, or other documentation received and pass them on to third parties only with robatherm's written consent unless the information contained therein is of general knowledge.

12.3 The supplier may advertise its business relationship with robatherm only with robatherm's written consent.

13. Assignment of Claims

The supplier may transfer his/her contractual rights in whole or in part to third parties only with robatherm's written consent.

14. Contractual Validity

Should individual provisions of these Terms and Conditions of Purchase or the contract be or become invalid, the remaining provisions' validity shall not be affected.

15. Place of Performance and Jurisdiction

The seat of robatherm shall be the place of performance for all obligations; any notices must be sent directly to that address.
The sole place of jurisdiction for all disputes arising from or connected with a supply contract shall be the registered office of robatherm.

16. Applicable Law

The legal relationships arising out of or in connection with a delivery contract shall be governed exclusively by German law, excluding the conflict of law provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).