

GENERAL TERMS AND CONDITIONS FOR SALE
Geurts Heatexchangers B.V.
Version 03/2021

1. GENERAL

- a) As used in these General terms and Conditions, the Person or Company to whom this proposal is addressed is hereafter referred to as "buyer" and Geurts Heatexchangers B.V. as "seller". The equipment or materials referred to as "Goods". The ultimate user of the Goods is hereafter referred to as "Owner".
- b) The acceptance of this Proposal or the placing of a purchase order for the Goods, includes the acceptance of the following conditions, which shall govern any agreement resulting from this Proposal and any subsequent or further agreements, unless otherwise specifically agreed to in writing by Seller. General Conditions of Buyer will not apply.
- c) If Seller has a commercial agency of the Goods; in that case the General Terms and Conditions of Principal are applicable and prevail upon the General Terms and Conditions of Seller. In the appendix a review is given of the commercial agencies of Seller.
- d) Seller's Proposal and any resulting agreement is based upon the covenant by Buyer that all the information and data provided by Buyer and/or Owner is full, complete accurate and does not contain information which is misleading and/or erroneous.

2. DELIVERY

- a) If a date of delivery is referred to in this Proposal or any agreement resulting there from, it is estimated only and not guaranteed. However, Seller will make every reasonable endeavour to adhere to such delivery date. If any technical date, specifications, instructions, goods, materials or payments have to be provided to Seller in advance, any delay therein will cause the delivery date to be postponed accordingly. Seller cannot be in default unless, for reasons imputable to Seller. Seller still fails to make delivery within a further and reasonable period, which shall be at least ten (10) full working days, stated to Seller in writing subsequent to the expiry of the anticipated delivery date. In case of such default, Buyer may only cancel the agreement to the extent that it has not yet been performed and to the extent that Buyer cannot reasonably be expected to let the, as yet unperformed, part of the Agreement stand. Seller is authorized to make part deliveries.
- b) Unless otherwise specified herein, delivery will be made ex-works points of manufacture, at which time, the risk with respect to the Goods will pass to, and subsequently remain, with Buyer. The title to the Goods delivered to Buyer shall not transfer to Buyer until Buyer has fully paid all that is payable to Seller in connection with deliveries to Buyer.
- c) Buyer must make an examination of goods delivered by Seller immediately after the delivery and must inform and/or Seller in writing of any incompleteness, unsoundness of the Goods discovered by him in the course of such examination within (10) working days after receipt. Non observance of these obligations shall entail the extinction of all rights in connection with any incompleteness, unsoundness and/or defects which Buyer could have discovered in the course of such examination.
- d) No representation is made by Seller with respect to the ability to acquire permits for the installation or operation of the Goods.

3. STORAGE

- a) If through no fault of Seller delivery cannot be accepted by Buyer, any resulting costs such as but limited to storage, insurance and or redelivery costs will be paid by Buyer, and the risk with respect to the Goods will nevertheless pass to Buyer.

4. TERMS OF PAYMENT

- a) Payment for the Goods shall be due and payable as set forth in the Proposal or as mutually agreed upon. Any liability on the part of Seller is subject to the terms of payment and all other obligations of Buyer being strictly observed by Buyer.
- b) If any payment is overdue Buyer shall, in addition to the statutory interest, also owe compensation for any currency price losses suffered by Seller and for all judicial and extra judicial cost incurred by Seller in connection with the collection of the monies due and payable to Buyer. Buyer may set off the price due against a due and payable debt from Seller to buyer only, if such debt has been expressly admitted by Seller or has established by final court judgement.

5. TAXES

- a) The prices provided for herein are exclusive of any present or future import duty, withholding federal, state, county, municipal, or other sales, use, excise, gross receipts, value added or similar tax with respect to the Goods, services, labour or transportation charges on such services and/or Goods covered hereby, and of any inventory or property tax or similar charges with respect to the services and/or Goods covered hereby after the Goods or any portion thereof is ready for shipment.
- b) If Seller is assessed or is required by applicable law of regulation to pay or collect any such duty, tax or charge on account of this transaction, then such amount of tax or taxes shall be paid by Buyer to Seller in addition to the prices provided for herein. If Buyer is exempt from the payment of any applicable duty, tax or charges or has a direct payment permit with respect to such duty, tax or charge. Buyer shall provide Seller with a suitable copy of the appropriate certificate or permit at the time the Purchase Order is issued.

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6. TIME OF ACCEPTANCE AND EFFECTIVE DATE

- a) The price and terms quoted in the Proposal are subject to acceptance by Buyer within thirty (30) days of the date of this Proposal. However, Seller reserves the right to amend or withdraw its Proposal at any time, prior to the moment Seller receives the formal acceptance by Buyer.
- b) The effective date of an agreement, contract or purchase order shall be the date Seller signs and accepts such documents.

7. GUARANTEES

- a) Seller warrants to Buyer that the Goods will be first quality and free from defects in material and workmanship.
- b) Seller will, at its option, repair or replace FOB point of manufacture Goods which are proven to be defective within six months from the time such Goods are put into operation, but no longer than twelve months from the date of shipment, whichever is the earlier, provided Buyer notifies Seller in writing as soon as such defect is discovered and provided further that such defects are due solely to faulty design, material or workmanship furnished by Seller hereunder. Seller assumes no liability for damage as a result of improper transport and/or improper storage and/or improper erection and/or improper operation or maintenance by Buyer and/or Owner, nor for erosion or corrosion, nor for any Goods which have been subjected to misuse, neglect, accident, repairs of alterations by other than Seller's Employees, nor for damage which is not due to reasons solely attributable to Seller.
- c) The guarantee set forth in this article 7 is expressly in lieu of all other guarantees, warranties, obligations and liabilities, express or implied by Buyer's inquiry or by law, including but not limited to those of merchantability and fitness for a particular purpose.

8. LIMITATION OF LIABILITY

- a) Seller's liability for damages and/or losses, regardless of what the cause thereof may be, shall be limited to repair or replacement of the defective part or parts of the Goods as aforesaid. Without prejudice to the foregoing and for the avoidance of doubt, it is expressly noted and mutually agreed upon that Seller shall not be liable to Buyer and/or Owner for damages and/or losses arising out of or connected with delays (other than mutually agreed liquidated damages), curtailment of plant operations, process failure, pollution and environmental damage, occupational disease and toxic torts, conditions at Owner's job site, loss of profits, loss of productivity, other cost removing any parts or equipment to be repaired or replaced, transportation and/or installation charges in connection with the repair, replacement nor shall Seller be liable for any contingent liability and/or consequential damages and/or losses, however caused.
- b) Seller's cumulative liability in the aggregate for all obligations such as but not limited to warranties guarantees, liabilities, penalties and indemnifications, under the purchase order or at law, whether express or implied, including but not limited to those of merchantability and/or fitness for a particular purpose is limited to hundred percent (100%) of the price.
- c) Buyer and/or Owner shall defend hold harmless and indemnify Seller against any liability for damages vis-a-vis third parties (including but not limited to, Owner in case Buyer is not the Owner) who claim to have suffered any loss or damage in connection with/or resulting from any agreement between Seller and Buyer or any Goods delivered or services rendered by Seller pursuant thereto
- d) Claims for damages from Buyer against Seller shall be barred and be null and void after twelve (12) months have elapsed from the day on which the damage occurred or could have been discovered

9. SUBCONTRACTS

- a) The cost entailed for Seller by any obligation to take back packaging may be charged by Seller to Buyer. Seller shall be entitled to place subcontracts or suborders for the fabrication or supply of any of the goods or parts thereof supplied hereunder.

10. CHANGES

- a) Buyer may, by instructions to Seller, direct changes in the Goods, Seller shall notify Buyer of the effect of such changes on the price, guarantees and anticipated delivery date and Seller shall not be obligated to make such changes, unless Buyer thereafter agrees in writing on the adjustments to be made. Seller shall not, however, be required to make changes which, in its opinion, affect its ability to satisfy its guarantees unless relieved of such guarantees.
- b) In the event of suspension of Seller's work by Buyer's instructions or lack of instructions, the price and delivery date of the Goods may be adjusted accordingly.

11. APPROVALS

- a) Buyer shall have the right to approve the drawings prepared by Seller prior to issuance of such drawings for use in manufacture and/or erection. If approval or rejection is not received by Seller within ten (10) days after receipt by Buyer of an item subject to approval, approval shall be deemed to have been granted.

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12. TERMINATION

a) In the event Buyer terminates in all or in part an agreement resulting from this Proposal, Buyer shall reimburse Seller all direct and indirect cost and expenses incurred, and all losses (including overhead and profit) suffered by Seller up to the date of such termination, as well as any such cost and expenses incurred by Seller as a result of subcontracts or suborders cancelled or terminated as a result thereof. In addition Seller shall be paid a fixed termination fee to be mutually agreed upon by Buyer and Seller.

13. FORCE MAJEURE

a) Delay in or failure to carry out the obligations imposed upon either party under the agreement resulting here from shall not be deemed breaches of the agreement, if such delay or failure results from an event such as, but not limited to fire, explosion, labour disputes, casualty or accidents, lack or failure of transportation facilities, epidemic, cyclone, flood, drought, or lack or failure of the other party of other parties, subcontractors to perform work or supply labour, materials, or utilities as required by agreement or by reason of war, declared or undeclared, revolution, civil commotion, acts of public enemies, blockade or embargo, compliance with (inter-) national export control regulations or by reason of any law, proclamation, regulation, ordinance, demand, or requirement of any government or any subdivision authority or representative of any government or by reason of any other cause whatsoever whether similar or dissimilar to these enumerated, beyond the reasonable control of the party involved. Seller shall be reimbursed for the cost incurred in, and connection with, stopping and returning to work, due to a force majeure occurrence and shall be entitled to an appropriate extension of time.

b) If buyer delays in or fails to make payments as required by the agreement for any reason, including those enumerated in the preceding paragraph of this article 13, Seller may suspend its work until such payments have been made, any may terminate the agreement if such delay of failure lasts for ninety (90) days. Seller shall be paid any increased costs occasioned by Buyer's delay in or failure to pay, including any extra cost resulting from suspending and resuming the work or in termination the agreement.

14. TITLE. USE OF TECHNICAL DATA

a) Buyer shall hold in confidence and disclose and not disclose to others or use, except as required for the proper execution of the agreement, information acquired by Buyer in the course of the execution of the agreement.

b) Title to all technical data, including but not limited to drawings, bills of material, flow diagram, layout details, and specifications prepared by Seller, shall remain with Seller.

Buyer shall have the right to use such data furnished by Seller only for erection, operation, and maintenance of the Goods, but shall not disclose these data to others except to the extent necessary to accomplish the foregoing. Duplication or purchase replacement Goods will not be made without the prior written consent of Seller.

15. GOVERING LAW

a) This Proposal and any agreement resulting there from shall be construed and given effect according to the law of the Netherlands, however, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

16. COMPLIANCE WITH LAWS

a) Seller warrants that the Goods furnished hereunder have been produced in compliance with applicable laws and regulations. If laws, regulations and/or codes applicable to the agreement are modified after the date of issuance of the Proposal, any alteration which Seller may be obliged to implement in order to conform with such modifications as required, shall be considered as a change conform article 10

Buyer acknowledges and accepts that the validity of Proposal and any agreement resulting there from shall be conditional upon Seller being able to obtain the necessary export license(s), permit(s).

17. REGULATIONS

a) The validity of this proposal and subsequent agreement is based on the condition that EXPORT CONTROL the required export/re-export authorizations will be granted and continued by the competent authorities in The Netherlands and in de countries of origin of the offered technical data and/or services and/or Goods. Buyer and /or Owner understand and agree that the furnishing of all technical information and/or services and/or Goods and the right to use same is subject to the continuing approval of the relevant (International) governmental authorities. Buyer and/or Owner herewith declare that the technical data and/or services and/or Goods, which will be received by Buyer and/or Owner under subject agreement(s) or the direct products of the data will be used for civil use only. The term "direct product" as defined herein above means the immediate product produced directly by of the technical information (i.e.the plant itself, but not the product produced by the plant).

18. APPROPRIATE JUDGES

a) Any dispute arising between Seller and Buyer will, if it cannot be settled amicably, be brought before the appropriate judge in the District court of the Hague.

Buyer shall reimburse Seller for all judicial and extra judicial costs which seller may incur when exercising Seller's rights under this proposal against Buyer.

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