HENRAD

General terms of sale

International

GENERAL TERMS OF SALE - HENRAD

1. Applicability

All our sales, transactions, works, deliveries and services are performed in compliance with the present terms unless explicitly agreed otherwise in writing and with the exclusion of divergent special or general terms of the buyer.

2. Offers

All our offers are free of engagement from our part and do not imply any commitment as to prices, quantities and periods of delivery and execution, which are always indicated approximately.

3. Concluding a contract – order confirmation

Each agreement of delivery of goods or execution of works is considered to be concluded on the date on which our order confirmation is sent to the buyer, unless the latter disclaims or contests the content of it in writing or by registered mail within eight (8) calendar days following the date of sending.

4. Price changes

If after the sending of our order confirmation costs of base material, wages, social security or public administration charges, electricity tariffs, the price of oil, coal, gas or other energy sources should rise unforeseeably, we will be entitled to raise the agreed purchase price correspondingly subject to legal provisions and restrictions relating to the matter. In this case we will present to the buyer an objectively justifying quotation of the increased purchase price, which will be binding upon both parties.

5. Periods of delivery

Delivery periods are indicative only. As a general rule, any delay shall not entitle the purchaser to compensation or termination of the agreement, except in cases of wilful misconduct, gross negligence, or where a binding delivery period has been expressly agreed in writing.

6. Delivery, shipment and risks

Unless explicitly agreed otherwise, delivery of the goods including transfer of all risks to the buyer shall be effected at our warehouses and the goods will always travel at the buyer's expense and risk, irrespective of the conditions of shipment and means of transport and irrespective of the agreed terms and place of delivery.

Reshipment of the goods by the buyer will be accepted only after our prior explicit and written approval and will be effected at the buyer's risk and expense, unless explicitly agreed otherwise.

Unless explicitly agreed otherwise, all expenses and damage of any kind arising during or owing to transportation, loading or unloading, shall never be at our expense, but only and fully at the buyer's expense and risk, who in this respect shall renounce any claim for compensation by us. If after delivery and during transportation to the buyer the goods should be damaged, completely or partially destroyed or lost, this shall not affect the buyer's obligation to pay the full purchase price.

7. Payment

Unless explicitly agreed otherwise in writing, all of our invoices are to be paid within thirty (30) days following the invoicing date, in cash, net and without any invoice amount reduction or discount. If the payment should bring about any costs, taxes, duties, import duties or any other levies relating to the goods, they will be at the buyer's expense, to whom they will be charged. All of our invoices are to be paid at our registered office. Set-off between our invoices and buyer's claims is not allowed.

As from the due date, default interest shall automatically and without prior notice of default be payable in accordance with the Belgian Act of 2 August 2002 on combating late payment in commercial transactions, as amended. Without prejudice to Henrad's right to prove and recover higher actual damages, the buyer shall automatically be liable for a lump-sum compensation to the amount of 10% of the unpaid or overdue paid invoice amounts which will be due by the buyer as well as all other applicable legal and extra-legal recovery expenses, including any costs relating to bills of exchange, reminders and protest and also legal costs in accordance with the provisions of the Judicial Code and the above-mentioned Law dated 2 August 2002.

8. Complaints

The buyer is obliged to check the conformity, quantity and quality of the goods upon reception. Complaints relating to visible defects and non-conformity of the goods shall only be valid if we are informed by the buyer immediately and no later than days (8) days following reception of the goods by registered letter or e-mail and on the

condition that the goods concerned remain available for our inspection effected by us or our representative.

Latent defects must be notified to us by registered letter immediately upon their discovery.

If a complaint regarding the conformity of the goods is considered to be well founded by us, the buyer will be only entitled to either replacement of the goods or price reduction, at our option. Compensation for consequential damage or anything else is excluded.

Any complaint regarding the contents of our invoices shall be considered valid only if notified in writing within eight (8) days following the invoice date.

9. Warranty

Insofar as Henrad provides a commercial guarantee for certain products, such guarantee shall apply exclusively in accordance with Henrad's separate Guarantee Terms and Conditions.

The current Guarantee Terms and Conditions are available prior to the conclusion of the contract on Henrad's website and may be consulted, saved and printed by the customer.

The commercial guarantee constitutes an additional voluntary manufacturer's guarantee and does not affect the consumer's statutory conformity rights or any other mandatory legal rights.

In the event of any inconsistency between these General Commercial Terms and the separate Guarantee Terms and Conditions, the Guarantee Terms and Conditions shall prevail with regard to the content and scope of the commercial guarantee.

10. Liability for Product Details

Any information and technical data on our products stated in catalogues, brochures and other written material shall be treated as approximate indications and shall not be binding for us.

We do not assume any liability for the buyer's selection of the product, including product compatibility, or for the use and results thereof, unless expressly agreed in writing.

We do not assume any liability for the buyer's selection of any supplementary equipment, service or installation required to be used together with the products, or for the use and results thereof.

This article shall in no way detract from the "warranty" as stipulated in article 9 of these General Terms of Sale.

11. Liability for Defects

Subject to compliance with the agreed terms of payment and punctual filing of the complaint, we shall remedy defects notified to us in writing, by registered letter or by facsimile message, on discovery without undue delay, under the express condition that the goods remain available for inspection effected by us or by our representative.

This liability shall not include defects owing to causes that have arisen after the passing of the risk to the buyer, except for defects that fall within the warranty conditions under article 9 of these General Terms of Sale.

If the complaint is considered to be well founded by us, the buyer will only be entitled to either replacement of the goods or a price reduction, at our option.

If the goods have been modified or serviced by others than us or a repairer indicated by us, or if the goods have been damaged or applied for purposes other than intended, or in the event of non-compliance of the installation, operation, and maintenance with our instructions, we may refuse to remedy the defects and we will not in any case be liable for the defects.

Our obligations/liability in respect of defects shall be limited to the above. We shall not be liable for any direct or indirect losses, including consequential losses, loss of profits, and similar, costs or damage.

12. Liability for Damage

We shall only be liable for personal injury, if it is proven that the injury is caused by our failure or negligence or committed by others for which we are liable and provided that a causal link between injury/damage and defect can be established.

We shall not be liable for damage to property or movables caused by the goods after delivery has taken place and whilst in the possession of the buyer, including, but not limited to, damage to products manufactured by the buyer, or to products of which the buyer's products form a part. Apart from this, we shall be liable for damage to property on the same conditions as liability for personal injury.

In any event, we shall not bear any liability if the goods have been modified or serviced by others than us or a repairer indicated by us, or if the goods have been applied for purposes other than intended, or in the event of non-compliance of the installation, operation, and maintenance with our instructions.

We shall not be liable for loss of operations, loss of earnings, or other financial, consequential, or indirect losses.

To the extent we incur liability towards a third party, the buyer shall indemnify us to the same extent that our liability is limited in accordance with the above mentioned clauses and the buyer will hold us free and harmless against any and all claims of such third party.

This article shall in no way detract from the “radiator warranty” as stipulated in article 9 of these General Terms of Sale.

13. The buyer’s obligations

The purchaser-wholesaler shall be obliged to pass on to its own customers (including consumers, installers and others) all technical documents received from us together with the product and/or made available on our website, including all safety information, conformity information, instructions, legally required product information, installation manuals and technical documentation.

14. Reservation of title

The title in the goods shall pass to the Buyer only when payment in full has been received by the Seller for all goods whatsoever supplied (and all services rendered) at any time by the Seller to the Buyer. The Buyer shall permit the servants or agents of the Seller to enter on to the Buyer's premises and repossess the goods at any time prior thereto. As long as payment has not been effected the Buyer cannot sell, pledge or offer goods as guarantee or collateral security.

Should the goods (or any of them) be converted into a new product, whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportions, the conversion shall be deemed to have been effected on behalf of the Seller and the Seller shall have the full legal and beneficial ownership of the new products, but without accepting any liability whatsoever in respect of such converted goods in relation to any third party, and the Buyer hereby indemnifies the Seller in relation thereto.
In the case of non-payment at the due date and upon demand the Buyer must return forthwith to the Seller all merchandise unpaid for.

The reservation of title does not affect the risk transfer to the buyer as provided by article 6. During the reservation of title period the buyer shall be responsible for storing and keeping the delivered goods in good condition, any loss and damage being at his risk. The buyer undertakes to insure the goods against all risks at his expense and to store the goods in such a way that they cannot be confused with other goods and that they can always be recognised as our property. Each payment effected by the buyer will be first deducted from the invoices concerning the goods used, processed or resold by the buyer.

The retention of title shall extend to all claims of Henrad against the purchaser arising from the commercial relationship.

15. Express dissolution clause

In case of non-execution of a concluded agreement or of any of the commitments included in an agreement by the buyer or through his fault and in case of bankruptcy of the buyer, the agreement shall be dissolved by law and without prior notice to the buyer, which can be confirmed by us by sending a registered letter stating the dissolution of the agreement. In this case the buyer will be bound to immediately send back to us at his expense and risk all delivered goods and to compensate us for any damage suffered and expenses made, including any consequential damage and loss of profit.

16. Force majeure on the part of Henrad

If we should be unable to fulfil the whole or part of this agreement by reason of force majeure or circumstances beyond our control, we will be entitled, at our own option, either to dissolve the agreement or to consider it dissolved completely or partly, or to postpone execution until the force majeure circumstances no longer exist, not being obliged in any of both cases to pay compensation for damages to the buyer.

Will be considered as force majeure: any circumstance that by force of law or public opinion cannot be ascribed to our will or our fault, including but not limited to: war, civil war, revolt, mobilisation, confiscation, embargo, industrial conflicts, strikes and lockouts, transport difficulties, raw material supply difficulties, energy supply restrictions or difficulties, operating trouble and machinery accident, import or export measures or restrictions imposed by government, serious currency exchange rate changes, bad weather making it impossible to work, fire, floods or other natural disasters, and even if it should be our suppliers or subcontractors that suffer from these circumstances.

17. Applicable law – competent court

All transactions and agreements with the buyer, independently from which country the latter is located in, shall be controlled by Belgian law with the explicit exception of the United Nations Convention on Contracts for the International Sale of Goods, Vienna, 11 April 1980, and approved by the Belgian Statute dated 4 September 1996.

Any disputes that should arise between the buyer and the seller as a result of the conclusion, interpretation, execution or termination of any agreement or transaction shall be settled by the competent court of the Turnhout legal district (Belgium) unless we, in the capacity of plaintiff, should prefer to bring the case before another court. No circumstances like free-of-charge shipment, drawing of a bill of exchange or acceptance of payment shall alter this competence clause.