

Herz Valves UK Ltd Terms and Conditions

1. Delivery & Carriage

- 1.1. Orders over the value of £100 net Exc. VAT, on stocked items with a standard 2 to 3 day delivery (UK mainland) will incur no Carriage Charge.
- 1.2. Orders below the value of £100 net Exc. VAT, on stocked items with a standard 2 to 3 day delivery (UK mainland) will incur a £15.00 Carriage Charge.
- 1.3. Guaranteed Next Day Deliveries will be quoted separately.
- 1.4. FORS Accredited sites are to be advised and will be quoted separately.
- 1.5. All order shortages need to be notified within 7 working days from receipt.
- 1.6. Call off orders must be completed within 3 months from the initial order date.
- 1.7. Order specific products may require a separate quotation.
- 1.8. Declarations made or to be made by HERZ to our contract partners come

2. Payment Terms

- 2.1. 30 Days Nett. Subject to our standard conditions of sale available on request.
- 2.2. Credit card payment facility available, Credit card payment facility available, please contact the sales office for details.
- 2.3. All new account applications will be subjected to a credit check before opening.

3. Goods Returns

- 3.1. The goods supplied by us shall remain our property until payment in full Credit Notes are not guaranteed. They are raised when we have made a satisfactory check that the goods are re-saleable and that the return period has not been exceeded.
- 3.2. Returned goods will only be accepted with prior written consent in the form of a Goods Return Note (GRN) generated by the Herz office which must accompany all goods returned. Any goods without a GRN generated by the Herz office will not be accepted but held for a maximum period of 4 weeks after which they will be disposed of if paperwork is not provided in that time.
- 3.3. All items should be packaged appropriately for safe transportation, as goods damaged in transit, due to poor packaging, cannot be credited by Herz Valves UK Ltd.
- 3.4. Herz will credit the purchase price of goods provided that they are received by us unused and undamaged within 30 days of delivery and with prior written consent from the Herz office in the form of a GRN, subject to our right to levy a minimum 15% handling charge. A copy of the delivery note that accompanied the goods must also be included with the goods. The return of the goods will be at the customer's expense.
- 3.5. If a customer has notified the Herz Sales Office that they wish to return goods and a GRN has been issued, they then have 7 working days in which to do so. No credit will be given if the goods are received after this allotted time.
- 3.6. We will not accept goods returned to us after a 4-month period from the delivery date due to the Terms and Conditions set out in our Warranty.
- 3.7. If returns are due to a Herz sales office error, then Herz Valves will arrange for collection.
- 3.8. Return of goods made to order will not be accepted in any case.

4. Warranty

- 4.1. Herz products are covered by the Herz 5 year warranty as per the Certificate of Guarantee (Customer Protection Notice) paragraph 1.2, with the exception of Herz HIUs which have a 5-year conditional warranty, the first year parts and labour, then parts only for the other 4 years, please contact the sales office for full details of the warranty conditions.
- 4.2. For clarification on any individual product warranties, please contact the sales office.
- 4.3. In the event of a proven claim on Herz Valves UK Ltd for an acknowledged product manufacturing defect, Herz will supply a replacement for the faulty products. It is the customer's responsibility to carry out the necessary replacement works.
- 4.4. The costs for any product replacement works must be agreed in writing prior to the works being carried out and are entirely at the discretion of Herz.
- 4.5. In the event that Herz agree to pay for the replacement works, evidence must be provided in the form of time sheets and receipts for any ancillary materials used etc. to support any claim. Herz reserve the right to refuse any payments that have not been agreed by prior arrangement or that are not supported by sufficiently corroborated evidence.
- 4.6. We will perform our warranty obligation by replacing free of charge any items which verifiably become entirely unusable within three months due to defective material or defective production, if the defective parts are returned within four months from delivery.
- 4.7. Herz will only refund monies for actual work carried out and under no condition will Herz enter any discussion regarding service or management costs of any description, or any markups other than actual costs.
- 4.8. Herz Valves are fully functional and fit for purpose if utilized in an external application and when operated within the temperature and pressure range of the valve, this includes external temperatures. Herz cannot be held responsible if the valves are subjected to extremes of temperature and weather conditions and should be protected and insulated from such. If fitted externally and exposed to the elements (weather conditions) some discolouration to components may occur, this should not affect the functionality of the valve.

5. Product Selection

- 5.1. Whilst great care and due diligence is taken when products are selected, against schedules or drawings, to be as accurate as possible, all quotations and valve schedules should be checked by the customer before ordering as Herz Valves UK Ltd cannot accept responsibility for errors and omissions when quoting, or for incorrectly ordered items.
- 5.2. For valves which require flow rates for sizing, if flow rates have not been provided, the valves will be selected at line size. Where flow rates have been provided, commissioning valves will be selected with a minimum signal of 1 kPa in accordance with CIBSE Code W: 2010 and BSRIA Guide BG 2/2010 Commissioning Water Systems.
- 5.3. For ultra-low flow rates where the signal is less than 1 kPa alternative commissioning techniques can be utilised as described in CIBSE Code W: 2010 and BSRIA Guide BG 2/2010 Commissioning Water Systems.

Herz Valves UK Ltd reserve the right to change design, specification and prices at any time and without prior notification.



Herz Terms and Conditions of Sale, Delivery and Payment

1. Offers, order acknowledgements, contract conclusion

- 1.1. All offers are without obligation. We reserve the right to modify, supplement or discontinue our production at any time.
- 1.2. Our written acknowledgement of order constitutes a contract, an acknowledgement of order by facsimile is sufficient also. The content of the acknowledgement of order shall at the same time be the content of the contract unless the customer raises an objection against it immediately after receipt. Otherwise, our acknowledgement of order and our Terms and Conditions of Sale, Delivery and Payment shall be deemed to have been accepted.
- 1.3. After the acknowledgement of order has been sent, the order placed with us can no longer be modified or cancelled.
- 1.4. The present Terms and Conditions of Sale, Delivery and Payment shall supersede any purchasing conditions of our customers in any case.
- 1.5. The prices are understood as ex works, unpackaged, carriage forward and without VAT.
- 1.6. In case of an increase in costs during the period between the acknowledgement of order and delivery, we shall be entitled to make the respective price adjustments.
- 1.7. In case that a component of a fitting ordered is not needed, the price deduction shall not be made according to the component price but according to our price calculation.
- 1.8. Declarations made or to be made by HERZ to our contract partners come into force once the declarations have been sent to the mailing address provided to us even if this mailing address has changed and we were not notified of this change immediately.
- 1.9. Changes and additions to this contract are only valid with written confirmation by persons at our company registered as authorised representatives in the commercial register. Our other employees are not authorised to agree on changes or ancillary agreements.

2. Conditions of Payment

- 2.1. As long as nothing else is given in the order confirmation, payments are net cash at receipt of the invoice and without any discount.
- 2.2. In the event of late payment, we reserve the right to charge interest on default in the amount of 10% above the respective Austrian bank rate per annum, however no less than 1% per month. Only payments made to the respective point of payment specified in the invoice shall be recognised by us. In the case of bank transfers, the payment is only considered made when the invoice amount has been irrevocably credited to our account.
- 2.3. Bills of exchange, cheques and payments by payment order shall only be recognised on account of payment.
- 2.4. Upon payment by acceptance or customer's bill, the arising discounting charges shall be borne by the debtor.
- 2.5. The date of the invoice shall be relevant for the date of payment in any case, even if goods are received with a delay for reasons not to be attributed to us.
- 2.6. Missing the payment deadline, loss of creditworthiness of the ordering party or other legitimate reasons entitle us, at our discretion, to withdraw from the contract or to declare all of our claims to be due immediately without consideration of the agreed payment deadline, all without hereby justifying a claim to performance or compensation for damages against us.

3. Retention of Title

- 3.1. The goods supplied by us shall remain our property until payment in full has been made for any and all goods supplied. This shall also apply to the payment of any bills of exchange accepted in payment by us. Our ownership right transfers in the event of sale by the purchaser to the proceeds obtained by the purchaser and in the event of further processing to the end product (proportionally). In the event of sale by the purchaser, the purchaser must inform its buyer of the existence of the reservation of ownership.
- 3.2. The purchaser must inform us immediately if third parties assert claims to the goods delivered under reservation of ownership or claim rights thereto. Any legal expenses shall be borne by the purchaser.

4. Packing and Dispatch

- 4.1. The goods will be packed to commercial standards at the purchaser's expense. Packing materials will not be taken back. The packing shall be dimensioned assuming customary transport conditions.
- 4.2. The goods will be dispatched ex-works at the risk of the purchaser, even in case of delivery freight prepaid.
- 4.3. The seller shall be obliged to take out insurance only if and to the extent that this has been agreed upon in writing.

5. Product Modifications

- 5.1. We reserve the right to make design modifications, to change tolerances and to make improvements.
- 5.2. In case of special designs manufactured according to customer sample, model or drawing, we reserve the right to supply up to 5 % more or less than the quantity ordered.

6. Complaints

- 6.1. Defects or damage discernible during a proper receipt inspection must be reported immediately after receipt of the goods; indiscernible defects must be reported immediately after their discovery. However, any warranty claim shall expire three months after delivery.
- 6.2. Deviations in the quantity of units supplied or in weight must also be reported to the transporter or forwarding company (carrier) upon receipt of the goods and the differences must be documented. Any defective units shall be returned to us without delay freight prepaid.

7. Warranty

- 7.1. We will perform our warranty obligation by replacing free of charge any items which verifiably become entirely unusable within three months due to defective material or defective production, if the defective parts are returned within four months from delivery.

8. Returned goods

- 8.1. Returned goods shall only be accepted with our prior written consent and only carriage paid to our plant in Vienna in undamaged condition.

- 8.2. Return of items made to order will not be accepted in any case.

9. Late delivery and release from the delivery obligation

- 9.1. The obligation to deliver and to adhere to the delivery period shall be suspended by any extraordinary events and circumstances not to be attributed to us which causes a relevant interruption of operations or makes the dispatch of goods impossible.
- 9.2. In the event that dispatching of goods is impossible, we shall be entitled to store any goods already manufactured at the expense and risk of the buyer. In that case, the goods will be invoiced to the buyer as if they had already been supplied.
- 9.3. If we are late with the delivery, the purchaser must agree to a reasonable deadline extension of not less than six weeks. The purchaser is no longer entitled to withdraw from the contract – even after setting of an extended deadline – if we have already begun production of the ordered goods.

10. Quality of a Consignment

- 10.1. The quality of a consignment cannot be assessed on the basis of the quality of individual items.

11. Damages, Limitation of Warranty

- 11.1. The amount of any claims is limited according to the net invoice value of the item in question.
- 11.2. We are entitled to resolve any guarantee claims by providing replacement articles. There is no entitlement to a price reduction.
- 11.3. Demands for compensation for damages arising from installation costs, processing costs, maintenance costs, etc. shall not be accepted or compensated by us under any circumstances.
- 11.4. Claims of the customer to compensation for damages, regardless of their legal basis, in particular due to late performance, impossibility of delivery, positive breach of obligation, negligence upon contract conclusion, consequential harm caused by defects, defects or prohibited actions are excluded insofar as they are not based on intent or gross negligence on our part. The existence of intent or gross negligence must be proven by the customer. Information issued by us (installation and maintenance instructions, details of areas of use for products, etc.) must be strictly adhered to. Where instructions are disregarded or ignored, the official conditions release us from any liability.
- 11.5. We accept no liability for damages arising from improper handling or use, excessive loading or natural wear. Furthermore, we do not assume liability with respect to any loss or damage caused by negligence nor any indirect or consequential loss.
- 11.6. Our liability for property damage from a product defect according to the Product Liability Act is excluded for all companies participating in the production and sale of our products as well as for all purchasers of our products, insofar as they are businesses. Our contract partners, insofar as they are businesses, accept the obligation to impose this liability disclaimer clause on their buyers, insofar as these in turn are businesses and our products are involved.

12. Place of Fulfilment and Jurisdiction

- 12.1. The place of fulfilment for all claims arising under the contract is Vienna, insofar as the goods are obtained from the plant in Vienna; if the goods are obtained from the plant in Kemetten, the place of fulfilment is Kemetten.
- 12.2. Vienna is agreed as the exclusive place of jurisdiction for all claims under the contract for contract partners from countries of the European Union as well as from countries of the European Economic Area and for contract partners registered in a country that has concluded an enforcement agreement with Austria.
- 12.3. Vienna is agreed as the place of jurisdiction for contract partners coming from countries that are not covered under item 12.2. The seller reserves the right to also assert the claim under the contract in the respective country before the respectively competent court.
- 12.4. Austrian law shall apply exclusively as subsidiary to these Terms of Sale, Delivery and Payment. The application of the Vienna UN Convention on Contracts for the International Sale of Goods is excluded.

Certificate of Guarantee

1. Definition of Terms and Scope of Validity

- 1.1. In order to be entitled to claim services under the present Certificate of Guarantee, the claiming party must hold a trade licence for the installation of low-pressure central heating systems and hot water preparation plants of the upper and lower categories or a trade licence for gas fitters and plumbers.
- 1.2. Under the present Certificate of Guarantee "Products" shall designate all heating components manufactured by us after May 1st, 2019, bought new by the party entitled to raise a claim either directly from us or directly from one of our authorized dealers in Austria, unless these components have been exempted from the validity of the Certificate of Guarantee by express declaration to the party entitled to raise a claim or are generally exempted from such guarantee. There are special provisions for electronic and electric products such as HERZ electronic thermostats and actuating drives, HERZ actuating drives, HERZ room temperature controllers, HERZ transformers and wireless control systems and devices, which are not covered by the Certificate of Guarantee. Furthermore, wear parts of HERZ components such as seals are not covered by the present Certificate of Guarantee.
- 1.3. A case of damage in the sense of the Certificate of Guarantee occurs when a customer of a party entitled to raise claims with HERZ raises a warranty claim against the said party for any damage caused by an error in design or a defect in manufacturing or materials of the products.
- 1.4. The geographic validity of the Certificate of Guarantee shall be limited to places within Europe and Turkey.

2. Extent of Services rendered under the Certificate of Guarantee

We shall render the following services under the present Certificate of Guarantee (excluding any further claims):

- 2.1. Replacement free of charge of the products or product components required for repairing the damage, postage paid to claim location.
- 2.2. At our discretion:
 - a) performing the required dismantling /disassembly and assembly/ installation of products or product components or
 - b) repairing the original product or product components or
 - c) paying the costs for the services as mentioned above.
- 2.3. Repairing the immediate material damage caused by the defective products or paying the costs for the services as mentioned above.
- 2.4. Reimbursement of the direct personal injury costs caused by the products.
- 2.5. Our liability according to 2.1. to 2.3. is limited to €500,000.00 per claim.
- 2.6. Without prejudice to the provisions of item 4.1. our liability shall be limited in terms of time to claims arising within a period of 5 years after manufacturing of the products causing the damage.

- 2.7. Our liability is limited to claims arising out of errors in design, defects in manufacturing or materials of the products and based on the absence of characteristics which have either been guaranteed by us or which can be expected in accordance with the state of technology or with trade practice.

3. Obligations of the Party Entitled to Raise Claims

It is a condition precedent for the implementation of the present Certificate of Guarantee that the party entitled to raise claims meet the below mentioned obligations. Failure to meet any or several of these obligations shall relieve HERZ of any and all obligations under the present Guarantee.

- 3.1. During installation and use of the products it is imperative to observe our instructions for installation and maintenance valid at the moment of installation and laid down in the brochures, standard sheets, as well as our information regarding the scope of application of the products. Furthermore, it is imperative to proceed with due care according to the state of technology, particularly during maintenance.
- 3.2. As soon as the party entitled to raise a claim detects or learns of a case of damage, it shall forthwith inform HERZ of such damage (not later than on the 3rd working day thereafter) by certified mail or email and shall make available to us all information requested by us. The information shall be submitted in writing upon our request.
- 3.3. The party entitled to raise a claim shall make sure that the representatives of our company and the agents of our insurance company be granted access to the place of damage immediately after giving notice of the claim and shall take all appropriate measures to determine the cause and scope of the damage. In particular, the party entitled to raise a claim shall keep and make available the products or product components which caused the damage.
- 3.4. The burden of proof lies on the injured party. The eligible party may not either in our name or in its own name recognise an obligation to provide compensation for damages, either in terms of basis or amount. Any declaration extending the scope of damages offered by the present Certificate of Guarantee and by the applicable legal provisions made by the party entitled to raise a claim before or after the occurrence of damage, are not permitted and shall not be binding on us.

4. Period of validity and formal provisions

- 4.1. The present Certificate of Guarantee shall cover claims for damage occurring between May 1st, 2019 and April 30th, 2024. We reserve the right to extend this period.

5. Place of Fulfilment, Jurisdiction, Applicable Law

- 5.1. The place of fulfilment shall be Vienna. The court having subject-matter jurisdiction for our company in Vienna shall have exclusive jurisdiction. Any disputes arising from the present Certificate of Guarantee shall be settled according to Austrian Law. The application of the Vienna UN Convention on Contracts for the International Sale of Goods is excluded.

Vienna, April 2019

