

GENERAL PURCHASING CONDITIONS

VDL KLIMA FRANCE

THE PURPOSES OF THESE GENERAL PURCHASING CONDITIONS ARE TO DEFINE THE EXPECTATIONS OF VDL KLIMA FRANCE REGARDING THE PURCHASING CONDITIONS OF PRODUCTS AND / OR SERVICES. THEY ARE PROPOSED WITHIN THE FRAMEWORK OF THE NEGOTIATIONS WITH THE SUPPLIER AND SUGGESTED IN ORDER TO SET THE TERMS AND CONDITIONS WHICH WILL APPLY TO THE ORDERS ISSUED BY VDL KLIMA FRANCE. THEY CONSTITUTE A LEGALLY BINDING AGREEMENT WHEN ACCEPTED BY THE SUPPLIER, WHETHER SUCH ACCEPTANCE IS GIVEN AS IS OR AFTER BEING SUPPLEMENTED OR MODIFIED BY AN AMENDMENT SIGNED BY BOTH PARTIES.

Article 1 – Scope of application

These General Purchasing Conditions (GPC) apply to any offers, quotes, orders and contracts from the Buyer to the Supplier.

These GPC form an integral part of any order, request, accepted quotation or offer transmitted by the Buyer to the Supplier. Only these GPC, the provisions of the Order and any documents incorporated by reference in the Order are binding on the Buyer.

If any term of these GPC is unenforceable for any reason, the other terms and conditions will not be affected.

Article 2 – Definitions

In these GPC the following terms shall have the meanings hereunder assigned to them :

- "Buyer": VDL KLIMA FRANCE, SARL with share capital of €38.200 registered with the LILLE METROPOLE Trade and Companies Registry under the number 354.060.063, having its registered office at Social LE WEDGE – 101 Rue Louis Constant - 59491 VILLENEUVE D'ASCQ ;
- "Supplier" : VDL KLIMA France co-contractor (contractual partner) ;
- Order : The accepted offer or quotation by the Buyer and transmitter to the Supplier. In particular, the designation of the Supply ordered, deadlines, delivery methods and conditions ;
- Offer : The written offer from the Supplier with conditions concerning the delivery of a material for a determined price at a certain date and determined place ;
- Contract : Written agreements between the Buyer and the Supplier ;
- GPC : These General Purchasing Conditions.

Article 3 – Offers and quotes – contract formation

Offers and quotes from the Supplier do not bind the Buyer. They are without engagement and binding for the Buyer during a 3 month period from their issuance.

All the expenses arising from the issuance of an offer or a quote are incurred by the Supplier.

Orders and quotes are only binding once the Buyer has given his consent by signing the purchase order form.

When an order follows an offer / quote from the Supplier, the contract is then concluded at the time of the acceptance of the order by the Supplier. Order shall be confirmed in writing within three working days after the order is placed. This confirmation must contain the price and delivery time and be formulated in an acknowledgement of receipt.

Any deviation :

- Could cause the cancellation of the order ;
- Can't be considered accepted unless it is the subject to a written and formal agreement from the Buyer.

Any modification asked by the Buyer will also need to be expressly accepted by the Supplier.

Article 4 – Prices

Unless otherwise agreed by the Parties in a signed document, the prices stated in the Order are firm and non-revisable, and include all taxes except VAT. Prices and conditions of delivery shall be governed by the 2010 version of the Incoterms issued by the International Chamber of Commerce and shall be made DDP (Delivered Duty Paid).

Prepayments are always calculated on the price excluding the VAT.

Article 5 – Payment and invoicing

5.1 Invoicing methods

Invoices shall be drawn up in duplicate and should specify :

- The Order reference as indicated on such Order ;
- The date and the number of the Delivery slip ;
- A detailed description of the Supply as described in the Order ;
- Details of the bank account into which payment must be made ;
- Details (name, phone number, email address) of the representative to contact in case of billing disputes.

Invoices that don't comply with these conditions will be returned by the Buyer to the Supplier to attach the missing information.

No invoice will be accepted if the prices indicated are not in accordance with contractual documents.

5.2. Payment methods

Unless otherwise agreed by the Parties and subject to any legal provision in force, the deadline for payment shall be forty-five (45) days end of month from the date of issuance of the invoice.

In the event of late payment, late payment interest shall be due starting from the day after the deadline for payment specified on the invoice, without any reminder being necessary. In this case, the interest rate for late payment shall be equal to three (3) times the legal interest rate applicable in France. Furthermore, and in accordance with the law, in case of late payment, the Buyer is legally bound to pay a lump sum as a recovery charge of an amount of €40.

Article 6 – Delivery

6.1. Delivery methods and packaging

The delivery shall be carried out in compliance with the contractual documents.

Unless otherwise provided in the Order, the delivery of the supply shall be "DDP" (Delivered Duty Paid, Incoterms 2010 of the International Chamber of Commerce).

Any delivery of Supply shall be accompanied by a delivery slip affixed to the outer packaging, with a copy of the said delivery slip inside the package, containing the following information :

- Identification number of the delivery slip ;
- Order number and item number of the Order ;
- Reference of the Supply ;
- Quantity delivered and, where applicable, the serial number and the individual number of products/parts.

The delivery or availability of the Documentation and the documents required by applicable regulations and standards is an integral part of the Supply.

All sales packaging become the Buyer property except for borrowed packaging. Borrowed packaging are returned by the Buyer at the expense and risk of the Supplier within a reasonable time from the full payment of the invoice by the Supplier to the Buyer.

6.2. Delivery times

Time is of the essence with respect to the contractual documents. The deadlines agreed between the Parties are mandatory and respecting these deadlines constitutes an essential condition without which the Buyer would not have contracted.

The Supplier shall promptly inform in writing the Buyer of any foreseeable delay in respect to the contractual deadlines, and of any measures taken to remedy such delay. Except for force majeure events, the Supplier shall bear any additional expenses resulting from this delay.

In the event of failure to meet contractual deadlines, the Buyer reserves the right :

- To apply automatically and without prior notice, late penalties equivalent to 1% of the pre-tax price of the relevant Order per week's delay, these penalties being capped at 5% of the pre-tax amount of the Order and / or
- To terminate all or part of the non-delivered Order fifteen (15) days following the contractual deadline.

These penalties do not discharge the Supplier from its obligations and cannot be considered as a final, lump-sum compensation for the damage incurred by the Buyer.

In the event of early delivery or excessive quantity, the Buyer reserves the right either :

- To accept the Supply ;
- To make the Supply available to the Supplier at the Supplier's own risk ;

- To return the Supply at the Supplier's own cost and risk.

6.3. Receipt and quality check

If as the result of the inspection, control and/or tests during or after the delivery, products are wholly or partially refused, the Buyer shall inform the Supplier in writing.

The Buyer may but need not, carry out a product inspection at the time of delivery. The identified defects shall be brought to the attention of the Supplier who will not be able to claim having been belatedly informed.

The acceptance of the products shall in no event be interpreted as a waiver of any sort, or affect the extent of the warranty. The Buyer reserves the right to refuse the Supply when the related Documentation is incomplete or is non-compliant with the contractual documents provisions.

The refused products by the Buyer shall be made available to the Supplier for a fifteen days (15) period. Beyond that deadlines products will be returned to the Supplier at his expenses and own risk. Refused products shall be replaced by the Supplier within a ten (10) business days' period from the notification of the refusal.

If the Supplier fails to fulfill this obligation within the agreed deadline, the Buyer may acquire the necessary products from a third party at the own risk of the Supplier and without prejudice to his right of revocation and compensation.

Article 7 – Transfer of ownership and risk

Ownership and risks of the delivered products shall pass to the Buyer upon delivery and unconditional acceptance of the products at the location specified on the order. The Supplier retains overall responsibility until the unconditional acceptance by the Buyer.

The only exception is the products delivered for sale on approval, on trial or rental.

Materials, marks, models and patterns made available by the Supplier to the Purchaser shall remain or become the property of the Purchaser in any circumstances.

Article 8 – Warranty and liability

The guarantee of the latent defects applies to the Supplier, provided that the apparent defect at the delivery time for which the extent of the damage was not foreseeable is considered as a latent defects subject to the guarantee.

The supplier warrants that the products, subject of the Supply, shall be free from defects in design, in manufacturing or in operating defects as well as against any defects in materials and parts comprising in assembly. The Supplier warrants the proper performance of the services, subject to the Supply, in accordance with the contractual documents.

Unless otherwise agreed between the parties, the duration of the warranty is twenty four (24) months from the latest of those two dates: the delivery date or the reception date. The warranty covers parts, labor, transport and travel.

This warranty clause is without prejudice to any damage sustained by the Buyer. Any product replaces or repaired or any service corrected shall be guaranteed, under the same conditions as above from the time of the repair / correction. In the event the Supplier does not perform its warranty duties, the Buyer reserves the right to perform or have a third party perform the necessary works at the Supplier's expense.

Article 9 – Intellectual and / or industrial property

The Supplier guarantees that the use and resale of the delivered products do not affect the patents, trademarks, designs, models, copyright of any third party.

The Supplier warrants that it is the holder of the intellectual property rights to the results and, as such, shall hold harmless the Buyer against all claims from third parties in relation to these rights.

The Supplier guarantees the Buyer that the use of products resulting from the work performed by the Supplier does not infringe any third party intellectual or industrial property rights and indemnifies the Buyer in and out of court against claims from third parties, and will fully compensate the Buyer for any resulting damage suffered and costs incurred as a result.

Article 10 – Cancellation clause

10.1 Either party shall be entitled to terminate the Order as of right by registered letter with acknowledgement of receipt in the following cases :

- When the other Party fails to perform any of its contractual obligations and does not cure such breach within fifteen (15) days from receipt of formal notice thereof sent by registered letter with acknowledgement of receipt ;
- When the other party becomes the subject of judicial protection, receivership or liquidation, subject to public policy provisions ;
- When the other Party did not perform its obligations because of a force majeure event a) the duration of which exceeds one month from the date of notification to such other Party thereof, or b) causing a delay justifying the termination of the Order, or c) permanently preventing the performance of the Order ;
- When provided by law or any regulation in force.

10.2. In addition, the Buyer shall be entitled to terminate the Order as of right by registered letter with acknowledgement of receipt sent to the Supplier, in the following cases :

- With immediate effect and without prior notice in case of any breach by the Supplier of any of its contractual obligations which cannot be remedied ;
- Subject to a thirty (30) days' written notice when one of the Buyer's competitors acquires the control of the Supplier's capital ;
- Subject to a thirty (30) days' written notice, in the event of a major change in the industrial organization of the Supplier that could jeopardize the proper performance of the Order.

10.3. In the event of termination of the Order by the Buyer for default attributable to the Supplier, the Buyer reserves the right to perform or have a third party perform all or part of the Order at the expense of the Supplier.

Article 11 – Confidentiality

The supplier shall keep confidential all information received from the Buyer in connection with the order, as well as all information the Supplier might have access as a result of its presence at the Buyer's premises, without the Buyer having to specify or mark such information as confidential.

The Supplier undertakes to :

- Use confidential information exclusively for the purposes contemplated in the Order ;
 - Disclose confidential information only to those of its employees for whom it may be strictly necessary for the purposes contemplated in the Order and then only a "need to know" basis ;
 - Ensure that the confidentiality obligations incumbent upon it under the present article "confidentiality" are complied with by its employees and other persons authorized by the Buyer to access confidential information.
- Restitute at the end of the Order, all documents and information handed over by the Buyer.
- This confidentiality undertaking will remain in force for five (5) years after the last date of delivery. In the event of a breach of the undertaking, the Supplier shall indemnify the Buyer against all consequences that the breach implied.

Article 12 – Personal data protection

For the purpose of this article "personal data" mean personal data defined as in the Data Protection Act of January 6th, 1978 and the EU General Data Protection Regulation (GDPR) n°2016/679 of April 27th 2016.

The parties undertake to process any Personal Data in accordance with laws applicable to the data processing operations and with the "EU General Data Protection Regulation" n°2016/679 entry into force the 25th of May 2018, when applicable.

The parties may collect data during and for the performance of the Order. The parties shall comply with the GDPR as well as all applicable national Personal Data protection laws and regulations in force during the term of the Order.

The supplier shall act exclusively on behalf of the Purchaser. As such, the Supplier shall act as a Personal Data processor with the meaning of the GDPR. It is expressly agreed that under the contractual relationship and in the case of the procession of Personal Data, the Supplier shall act exclusively on behalf of the Purchaser, on the basis of and in accordance with the stipulations of these Contract as well as the instructions of the Purchaser.

GENERAL PURCHASING CONDITIONS VDL KLIMA FRANCE

Any failure to meet those requirements will constitute a breach of an essential obligation of the contract that may result to the whole or partial termination of the Order for misconduct in accordance with the provisions of the Cancellation clause aforesaid.

The supplier will compensate the Purchaser against claims, costs, damages, fees, loss, responsibility, expenses (included the legal fees) sustained by the latter directly or indirectly as a result of the GDPR violation.

Article 13 – Force majeure

Each party shall inform the other Party immediately, with confirmation by written notice, of force majeure preventing it from performing its obligations under the contractual documents.

After reception of the Force majeure notification, the other party may then :

- Wholly or partially terminate the contract in accordance with the article 10.1 of the GPC ;
- Suspend its obligations without being required to any compensation.

For the application of this clause, only an event meeting simultaneously all the conditions described hereinafter shall be considered an event of force majeure :

- This event must be beyond the control of the Party invoking force majeure ;
- This event could not have been reasonably foreseen when the Order was issued ;
- The outcome of such event could not have been avoided with appropriate measures ;
- This event prevents the Party invoking force majeure from performing its obligation.

The Supplier shall not be able to invoke delays on the part of its own suppliers or subcontractors unless the cause for these delays may be considered an event of force majeure under this clause.

Article 14 - Disputes and applicable law

The contractual documents concluded between the Buyer and the Supplier are governed by French law.

Failing amicable agreement, all disputes arising out in connection with the formation, validity, interpretation, performance, or termination or their follow up, of any of the contractual documents shall be settled under the exclusive jurisdiction of LILLE (59) in FRANCE, notwithstanding plurality of defendant or introduction of third parties.