

GENERAL CONDITIONS

JULY 2023



GENERAL TERMS & CONDITIONS OF CLIMALUX B.V.

These terms and conditions have also been translated from Dutch into the English language. The enclosed English translation is not a certified translation. In any discussion about the explanation of the meaning of the English translation of the Dutch word, reference will be made to the Dutch word and its Dutch meaning.

ARTICLE 1. DEFINITIONS

These general terms & conditions are subject to the definitions below.

Climalux

Climalux B.V., with its registered office at Prins Hendrikweg 14, (3151 AE) Hoek van Holland, registered with the Chamber of Commerce under number 74397125.

Buyer

Contracting party of Climalux.

Products

The goods and/or services offered or supplied by Climalux that are the subject of an offer, quotation, agreement or other action by or with Climalux.

Offer

A non-binding offer by Climalux to supply or perform the goods and/or services described in the offer to the Buyer for the price indicated in the offer.

Order Confirmation

The order confirmation signed by Climalux and the Buyer, through which an Agreement is concluded. An order confirmation is also established when by the composition of legal acts (through whatever means of communication) it can be concluded that a quantity of Products at a certain price will be delivered by Climalux to the Buyer.

Object

The location, usually consisting of the Buyer's building, such as a greenhouse, where Climalux's Products are placed by the Buyer, Climalux and/or third parties.

Agreement

The agreement between Climalux and the Buyer aimed at buying, selling, distributing or licensing the Products.

General Conditions

These general terms & conditions of Climalux, as filed with the Chamber of Commerce under number 74397125 or as made available to the Buyer by Climalux in any manner whatsoever.

ARTICLE 2. APPLICABILITY.

- 2.1 The General Conditions apply to all legal relationships in which Climalux acts as the (potential) seller and/or supplier of Products, including the Offers and their acceptance by Climalux.
- 2.2 If that the provisions of the General Conditions conflict with the provisions of the Agreement, the provisions of the Agreement will prevail and be binding.
- 2.3 Any deviation from these General Conditions is only possible to the extent expressly agreed in writing by Climalux with the Buyer.
- 2.4 The nullity or voidability of any provision of these General Conditions, or of the Agreements concluded under these General Conditions, does not affect the validity of the other provisions. The void or voidable provision will be replaced by a provision to be considered valid, the purport of which corresponds to the first provision to such an extent that it will be assumed that this provision would have been included if the first had been waived due to its invalidity.
- 2.5 Climalux is entitled to unilaterally change or supplement these General Conditions. Climalux will inform the Buyer of such changes or additions in a timely manner and in writing.
- 2.6 The Buyer with whom the present General Conditions have once been contracted agrees that these General Conditions will also apply to new Agreements to be concluded.

ARTICLE 3. GENERAL TERMS AND CONDITIONS OF THE BUYER OR THIRD PARTIES.

- 3.1 General terms and conditions of the Buyer or third parties are expressly rejected; Climalux only accepts the applicability of terms and conditions of

- the Buyer or third parties to the extent expressly agreed in writing.
- 3.2 General terms & conditions of the Buyer or third parties are only accepted by Climalux under the above-mentioned conditions and only apply to the relevant Agreement. Other Agreements between the same contracting parties will not automatically be subject to those general terms and conditions. Application of those general terms and conditions of the Buyer or third parties will be expressly agreed in writing separately for each Agreement.

ARTICLE 4. OFFERS.

- 4.1 All Offers are without obligation and will be considered as a whole, unless expressly stated otherwise in writing. Offers are only legally valid if signed by Climalux, or at least by a person authorised to represent Climalux.
- 4.2 Offers are valid for the term indicated therein. If no term is indicated, a term of thirty (30) days after the date on which the Offer is made will apply. Climalux may modify, withdraw or revoke any Offer until it receives notice from the Buyer that it has accepted the Offer. An order from the Buyer is only considered final or accepted following confirmation by Climalux.
- 4.3 The Buyer guarantees to have provided Climalux with correct and complete information. Complete information is understood to mean all information necessary for Climalux to prepare an Offer.
- 4.4 Illustrations, specifications, budgets and other information provided by Climalux or referred to in Offers are not binding for it and are of an indicative nature only. Minor deviations do not entitle the Buyer to refuse receipt of the Products or payment thereof in whole or in part, or to demand modification of the Agreement or any compensation from Climalux.
- 4.5 Climalux remains the owner of all data provided within the framework of an Offer, including but not limited to price lists, calculations, catalogues and the like. The Buyer will return these free of charge at Climalux's first request.
- 4.6 Prices are quoted exclusive of turnover tax, other government levies, transport, packaging and insurance costs and the like, unless the parties have agreed otherwise in writing. If Climalux offers several products in an Offer and states a price, such price applies exclusively to the entire Offer.
- 4.7 Making an Offer does not oblige Climalux to enter into an Agreement with the Buyer. If Climalux's Offer is not accepted and no Agreement is concluded between the parties, third parties are not authorised to use the information contained in the Offer, unless expressly authorised in writing by Climalux.

ARTICLE 5. AGREEMENTS

- 5.1 Only these General Conditions, the content of the Offer, the Order Confirmation and any work programme drawn up determine the content of the Agreement. Climalux has an obligation of best efforts unless agreed otherwise.
- 5.2 Agreements with, or commitments by, subordinates of Climalux do not bind the latter insofar as they have not been confirmed or accepted by Climalux in writing. As subordinates are in this connection to be considered employees and employees who have no power of attorney.
- 5.3 The Agreement comes into effect on receipt by Climalux of the Order Confirmation and/or Offer signed by Climalux and the Buyer. If the Buyer fails to return the signed Order Confirmation but does allow Climalux to commence work, the content of the Offer / Order Confirmation is deemed to be agreed.
- 5.4 If the Buyer makes any changes to the Order Confirmation or Offer, no Agreement will be formed unless Climalux confirms this in writing to the Buyer. Should no such confirmation follow from Climalux, then if Climalux does commence the work, the original Order Confirmation/Offer will apply between the parties.
- 5.5 The Agreement is entered into for an indefinite period of time, unless the content, nature or purport thereof indicates otherwise. Unless otherwise agreed in writing, if the Buyer terminates an Agreement for an indefinite period, a notice period of 3 months will apply. Termination can only take place by means of a registered letter addressed to Climalux. Termination of a fixed-term Agreement is not possible, other than pursuant to these General Conditions.
- 5.6 Any Agreement entered into with Climalux contains the condition

subsequent that sufficient creditworthiness of the Buyer is demonstrated to the satisfaction of Climalux. Pursuant to Article 16.4, Climalux has the possibility to require prior security from the Buyer.

- 5.7 The Buyer is not permitted to transfer any rights under the Agreement entered into by the Buyer with Climalux. Climalux is entitled to have the work performed under its responsibility by subcontractors.
- 5.8 Notices by Climalux to the Buyer will be validly given to the Buyer's last known address.
- 5.9 The fact that Climalux has regularly delivered Products to the Buyer does not mean that there is a continuing agreement between the parties of any nature whatsoever, or that Climalux has to accept one or more (new) orders.
- 5.10 Stated deadlines are indicative only. If strict deadlines are expressly agreed in writing, changes and/or weather conditions resulting in Climalux exceeding the strict deadlines agreed for that purpose are entirely for the risk and account of the Buyer.

ARTICLE 6. CHANGES TO THE ORDER

- 6.1 Additional agreements or changes to the order issued are only legally valid if they have been agreed in writing with Climalux, or confirmed in writing by Climalux and no written objection has been made by the Buyer within 5 working days after sending the confirmation.
- 6.2 If these additional agreement or changes result in higher costs or more work for Climalux, this will be charged to the Buyer. Additional agreement or changes resulting in a reduction of costs or work will give rise to payment of a lower amount that had been agreed.
- 6.3 Changes in the execution of the Agreement requested by the Buyer after its conclusion in accordance with the provisions of Article 5.4 will be notified by the Buyer to Climalux in good time and in writing. If such changes are notified verbally, the risk for the implementation of the changes will be borne by the Buyer. Climalux reserves the right to refuse requested changes, without this entitling the Buyer to terminate the Agreement or to claim any compensation from Climalux.
- 6.4 Climalux may also perform and charge for additional work if the performance of additional work falls within its duty of care, it is necessary or desirable in the opinion of Climalux, or results from any conduct of the Buyer.
- 6.5 If the Buyer itself or a third party performs or causes to be performed work, which under the Agreement would be performed by Climalux, this will not lead to a discount on the agreed amount.
- 6.6 Climalux strives to continuously improve its Products. As such, it reserves the right to modify its Products whenever it deems it justified.

ARTICLE 7. PRICE CHANGES

- 7.1 If the cost of materials or services necessary for the execution of the Agreement increases or if other circumstances arise that cause an increase in the cost of the Product to be delivered, for example if the stated or assumed surface area or condition of the Object does not correspond to reality (signed order) as well as if the Buyer has not provided the information it was obliged to provide pursuant to Article 4.3, Climalux is entitled to charge such price increase to the Buyer.
- 7.2 The Buyer acknowledges that all prices stated in the Agreement, including the Products accepted and yet to be delivered, may be changed by Climalux due to cost increases faced by Climalux, including, but not limited to, taxes, transportation and handling charges, exchange rate fluctuations, currency regulations, change in excise duties and increase in labour costs, cost of materials or other manufacturing costs, or due to any restriction or measure due to epidemics or pandemics and governmental restriction or measure. The Buyer further acknowledges and accepts that such changes will not give rise to a right of termination for the Buyer or any other remedy, provided that the price increase is implemented by Climalux in a reasonable and uniform manner and does not apply exclusively to the Buyer.

ARTICLE 8. INTELLECTUAL PROPERTY

- 8.1 Climalux reserves all intellectual property rights to all products or materials it uses, including drawings and technical descriptions. Publication, copying or reproduction in any manner whatsoever is not permitted.
- 8.2 The Buyer only acquires a right of use and the powers that the Buyer receives under these General Conditions and the Agreement. The Buyer will only have the right to use the relevant Products or parts thereof within its organisation in a manner customary for such organisation.
- 8.3 The Buyer will not be permitted to remove or alter any markings on or in the relevant Products relating to copyright, patent rights, trademarks, trade names or other intellectual property rights.

- 8.4 The Buyer will immediately notify Climalux of any infringement of the intellectual property rights of third parties by the Buyer and or third parties as well as of any claims for compensation and/or legal action by third parties on the grounds that the use of Climalux Products would infringe any intellectual property rights of third parties.
- 8.5 Climalux accepts no liability towards the Buyer for infringements as referred to in the previous paragraphs of this article if the infringement relates to the fact that the Buyer has adapted or modified the relevant Products or has had those acts carried out by third parties, or that he uses the relevant Products in connection with or in combination with other products not made available by Climalux, or uses the Products in a manner that does not correspond to the purpose, documentation or instructions by Climalux.
- 8.6 For each act carried out in breach of this provision by the Buyer, any subordinates and employees of the Buyer, or persons or companies in any way affiliated to the Buyer, the Buyer will owe a fixed penalty of €10,000 (in words: ten thousand euro) per breach and €1,000 (in words: one thousand euro) for each day that the breach continues, without prejudice to Climalux's right to claim further compensation.
- 8.7 Climalux is entitled to use (images of) the Products delivered to the Buyer - without Buyer's consent - for its own publicity or promotion.

ARTICLE 9. EXECUTION OF THE AGREEMENT, WORK AND DELIVERY

- 9.1 Delivery takes place ex-works, on the day Climalux informs the Buyer, by whatever means, that the Products are made available for collection, by Climalux, unless the parties have agreed otherwise. Transport and/or storage of the Products on the Buyer's Object and/or any third party storage site, and all related costs are at the risk and account of the Buyer.
- 9.2 Products are at Buyer's risk at the time of delivery. The same applies with effect from the moment when the Buyer fails to perform an act of delivery with which it is required to cooperate. If the Buyer refuses to take delivery of the delivered products, refuses to grant access to the place where Climalux has to carry out work for the implementation of the Agreement, or, whether temporarily or not, actually prevents Climalux from obtaining such access, or on the other hand fails to co-operate in the unhindered execution of the Agreement, the Buyer will reimburse Climalux for all costs, damage, loss of profit and interest arising therefrom. In addition, Climalux is entitled to suspend or terminate the Agreement in accordance with the provisions of Article 15.
- 9.3 An agreed delivery time is not a strict deadline, unless expressly agreed otherwise in writing. In case of installation of the Products by Climalux in the Object of the Buyer, the agreed delivery time will only commence after Climalux has access to the Object, it is clean and empty and Climalux is able to carry out its work. In case of late delivery, the Buyer will provide Climalux a written notice of default, setting a reasonable period for performance. What constitutes a reasonable period depends on the order, but is never less than two weeks, unless Climalux has agreed to a shorter period in writing. With due observance of the relevant provisions of Article 14, exceeding the delivery period can never give rise to any claim for compensation or termination of the Agreement.
- 9.4 Delivery times indicated by Climalux's suppliers are not binding on Climalux. Climalux accepts no liability whatsoever with regard to a possible exceeding of such a delivery time. Nor can the Buyer in that case claim any compensation or termination of the Agreement except as provided in paragraph 7 of this article.
- 9.5 The Buyer will at all times arrange for any permits as required by the government. Any measures to be applied by Climalux that affect the working method will be discussed with Climalux at the start of the works.
- 9.6 Climalux is entitled to deliver the Products in parts. Climalux will then be entitled to invoice these partial deliveries separately.
- 9.7 If it follows from the Agreement that testing and/or trial runs are necessary for proper delivery, the Buyer will give Climalux sufficient opportunity to do so, as well as to make such improvements and changes as Climalux deems necessary. If during testing the Buyer's business operations will be temporarily disrupted, the associated costs remain at the risk and account of the Buyer.
- 9.8 Installation of the system or the testing thereof will be carried out by an approved installer/installer in accordance with the installation instructions accepted by the Buyer and installer as stated in the installation manual provided to the Buyer (as published on our website <https://climalux.nu/en/general-terms-conditions>).
- 9.9 The Buyer will be deemed to have accepted the commissioning upon completion of the inspection of the installation and any tests.
- 9.10 If it is stipulated that the Buyer performs work or provides materials

(spaces, facilities, etc.) and the Buyer fails to comply with this obligation, Climalux is entitled to pass on to the Buyer the costs associated with performing that work or providing those materials, without prejudice to Climalux's right to terminate the Agreement in accordance with the provisions of Article 15.

- 9.11 If, as a result of the work to be performed by Climalux, costs are incurred by the Buyer, these will remain for the account of the Buyer, unless otherwise agreed in writing.
- 9.12 Costs arising due to the Buyer's failure to allow Climalux to execute the Agreement or due to the Buyer's failure to co-operate with Climalux to enable the execution of the Agreement by Climalux or third parties will be borne by the Buyer. The agreed amount remains payable by the Buyer to Climalux in the said cases without discount.
- 9.13 If the work can be delayed due to the actions of the Buyer or third parties, the Buyer will reimburse Climalux for the additional costs related thereto.
- 9.14 Waste arising from the performance of the works will be left by Climalux at places indicated by the Buyer. The costs of disposal thereof will be borne by the Buyer.
- 9.15 Materials and tools remain the property of Climalux. If the parties have agreed that Climalux will take care of the installation of the Products in the Buyer's Object, Climalux will determine the manner in which and by which person this Agreement will be executed. If third parties are engaged by Climalux for the purpose of the installation of the Products in the Buyer's Object, an agreement is created between Climalux and these third parties, unless Climalux and the Buyer agree in writing that an agreement is created directly between the Buyer and these third parties. In the latter case, Climalux will not be a party to the agreement created by these third parties and the Buyer. The Buyer, by accepting the Agreement, consents to the third parties (to be) designated by Climalux to perform work on behalf of the Agreement.
- 9.16 If the Buyer itself wishes to involve third parties in the performance of the order, it will only do so after having reached written agreement with Climalux. The work to be carried out by third parties on behalf of the Buyer will be entirely at the risk and account of the Buyer. Climalux accepts no liability whatsoever in respect of work carried out or to be carried out by such third parties.
- 9.17 The Buyer will make water, gas and electricity, as well as facilities generally present in the Object such as suspended installations, available to Climalux without restriction and free of charge, so that Climalux can properly execute the agreed works. Items made available to the Buyer by Climalux for the duration of the Agreement are for the risk and account of the Buyer. The Buyer will adequately insure these items. The Buyer will also make available upon request of Climalux lockable space suitable for the storage of these items. The items may be inspected by or on behalf of Climalux. Any damage or loss is at the Buyer's risk and account. The Buyer will also make sufficient facilities available free of charge for Climalux's personnel and assistants, such as cloakroom, storage and the like. The Buyer will make and keep the roof and the immediate surroundings of the Object accessible for Climalux. Furthermore, the Buyer will remove all possible obstacles at or to the Object. At the first request of Climalux, the Buyer will take additional safety measures and in the immediate vicinity of the Object.

ARTICLE 10. CANCELLATION

- 10.1 If the Buyer cancels the Agreement, it will reimburse Climalux for all costs, damage, lost profits and interest resulting from the cancellation, with a minimum of 10% of the invoice value of the relevant Agreement. Furthermore, the Buyer will owe Climalux by way of additional compensation for the work carried out by Climalux up to that point, in accordance with the price agreements made between the parties. The Buyer furthermore indemnifies Climalux against claims by third parties as a result of the cancellation of the order.
- 10.2 Without prejudice to the provisions of the previous paragraph, Climalux reserves all rights to claim full performance of the Agreement or full compensation.

ARTICLE 11. INSPECTION AND COMPLAINTS

- 11.1 The Buyer will thoroughly inspect the Products immediately, i.e. on the day of delivery. Thus, the Buyer will inspect whether the Products are sound and undamaged and whether the quality and quantity of the delivered Products correspond to what was agreed between the parties. If during this inspection it appears that the Products and/or the execution of the work deviates significantly from what was agreed, or if the result of the work remains below a quality level agreed beforehand in writing, the Buyer will immediately inform Climalux thereof in writing. This written

notification will at least contain an accurate description of the time and place where the defect was observed, the nature and seriousness of the observed defect and a reasonable period within which Climalux will remedy the observed defect. A reasonable period in this context is at least 10 working days. If the Buyer does not notify Climalux upon delivery of any defects that could have been detected upon thorough investigation or fails to inspect the Product, the Buyer will be deemed to agree to the condition in which the Products have been delivered and the agreed work has been performed and any right to lodge complaints will lapse.

- 11.2 Climalux will be enabled to verify complaints submitted. It, as well as third parties appointed by it, will be granted access to investigate the submitted complaint itself. If access is not granted, the complaint will be considered unfounded. If in Climalux's opinion the complaint is correct, Climalux will, at its option, either remedy the defect or pay fair compensation up to a maximum of the invoice value of the Products delivered. Payment of compensation by Climalux will take place in accordance with the provisions of Article 16.10. Climalux will not pay any further compensation or costs.
- 11.3 The Buyer has no right to complain if the Buyer itself does not or not adequately fulfil any obligation under the Agreement including these General Conditions with Climalux. Complaints do not entitle the Buyer to terminate the Agreement, to claim termination or to withhold or delay payment in whole or in part.
- 11.4 Complaints relating to Products delivered, work performed or the invoice amount will be submitted in writing no later than 5 days after delivery or completion or after the invoice has been sent. For complaints regarding defects that are not immediately visible, a period of eight (8) days after such defect should reasonably have been detected will apply. The provisions of paragraphs 1 to 3 of this article apply accordingly, unless otherwise follows from the nature or purport of that paragraph. If no claim is made by the Buyer within the specified period, the Buyer's right to complain will lapse.

ARTICLE 12. QUALITY OF THE PRODUCTS

- 12.1 Minor deviations from the stated deviations, weight, number, colour and other similar characteristics do not constitute defects.
- 12.2 If prior to the purchase or thereafter Climalux makes announcements concerning the possible use, application of the Products, age, yield or deterioration, Climalux accepts no liability for the accuracy of the announcement or the results achieved, unless Climalux has given the Buyer a written guarantee in this respect.

ARTICLE 13. GUARANTEE

- 13.1 Climalux guarantees for a period of three (3) months from the time of delivery that the Product it delivers is free from defects due to manufacturing faults and/or defective materials, meets the usual requirements and standards reasonably applicable at the time of delivery and that the Products are fit for the purpose for which they are intended under normal use, unless longer periods or other conditions apply. The Buyer will verify whether the Products are suitable for the intended use and whether the use complies with the applicable conditions.
- 13.2 Climalux guarantees the Buyer that the Products, including the entire system supplied by Climalux, will be free from defects, subject to the provisions of paragraph 1 of this article, for a period of forty-eight (48) months or twenty-five thousand (25,000) burning hours, whichever comes first from the delivery date as named in Article 9.1 of these General Conditions.
- 13.3 Climalux will have no obligations under this article if the Buyer fails to fulfil its payment obligations under these General Conditions.
- 13.4 If the guarantee offered by Climalux relates to a Product manufactured by a third party, the guarantee offered by Climalux does not extend beyond the guarantee under paragraph 1 of this article and in no case beyond the guarantee provided by such third party on the Product.
- 13.5 Climalux will not be bound by third party guarantees with respect to the Products. If the Buyer can hold a third party liable, directly or indirectly, on the basis of guarantees provided by such third party with respect to the Products, the Buyer is not entitled to hold Climalux liable on the basis of the guarantees provided by it as referred to in this article with respect to the Products.
- 13.6 Guarantees included in the Offer, Order Confirmation or Agreement will prevail over the guarantees mentioned in this article.
- 13.7 The Buyer may only invoke a guarantee if the Buyer immediately informs Climalux in writing of any defective Product before the expiry of the guarantee period mentioned in paragraphs 1 and 2 of this article and no later than fourteen (14) days after discovery of a defect in a Product.
- 13.8 If the Buyer invokes the guarantee provisions, Climalux will have the right, at its sole discretion, to determine that either (i) the defective Product or

any part thereof will be repaired or replaced; or (ii) the return of the Product and refund of the amount actually paid by the Buyer for the Product will be accepted, or (iii) the Use Value of the relevant Product will be calculated and the Buyer will receive the amount actually paid by the Buyer, less compensation for the use and benefit enjoyed by the Buyer through the use of the Product.

- 13.9 Climalux may at its discretion choose to repair or replace a new or reconditioned Product or parts thereof. If a Product or a part integrated therein is no longer available, Climalux may choose to replace the Product or the relevant part with a similar Product or part with the same function. If the condition that the Products will be free of defects in material and workmanship is not met, the Buyer may only claim the above arrangement. Products or parts repaired or replaced by Climalux pursuant to this article will remain under this guarantee during the remaining guarantee period.
- 13.10 No claim under guarantee exists in case of normal wear and tear of Products and/or if the Products or parts thereof are not used, treated or processed in accordance with the (installation) regulations (including product instructions and accompanying manual as provided for after Article 9.8 of these General Conditions), in case of incorrect installation or incorrect inspection of the installation by the Buyer or installer (including an installation not in accordance with the provisions of Article 9.8 of these General Conditions), improper use, transportation and/or maintenance by the Buyer and/or third parties, without the written consent of Climalux, unauthorised adjustments or modifications, faulty voltage, disruptive voltage spikes or if the defect was caused by or results from circumstances beyond the control of Climalux, including, but not limited to, weather conditions, such as extreme rainfall or temperatures, the Buyer's failure to keep accurate and complete records of operation and maintenance during the guarantee period, failure to provide Climalux with access to such records, and/or modification or repair of the Products without Climalux's consent.
- 13.11 Should Climalux choose to replace parts in fulfilment of its guarantee obligations, the old replaced parts become the property of Climalux. The Buyer will return these Products or parts to Climalux at its first request and to do everything necessary to transfer ownership thereof to Climalux.
- 13.12 Liability arising under this article is, to the extent applicable pursuant to the foregoing, limited to repair, replacement or refund.
- 13.13 If a model has been shown to the Buyer, that model is deemed to be an indication only and the Product need not comply with it, unless it has been expressly agreed that the Product will be identical to the model.
- 13.14 The guarantees provided by Climalux under the Agreement or General Conditions may not be transferred, disposed of or assigned by the Buyer to any other party without the prior written consent of Climalux.
- 13.15 Indemnities and guarantee obligations of Climalux under an Agreement or these General Conditions do not create any liability to third parties.

ARTICLE 14. LIABILITY

- 14.1 The liability arising from the guarantee referred to in Article 13 will in all cases be limited to the original invoice amount for the Products concerned.
- 14.2 Notwithstanding the provisions of these General Conditions, Climalux accepts liability only for losses suffered by the Buyer in case of intent or gross negligence on the part of Climalux.
- 14.3 Subject to the provisions of these General Conditions, Climalux accepts no liability for losses suffered by the Buyer towards third parties or in connection with the nature or defects of delivered Products, or the fact that delivered Products do not possess the properties that the Buyer could reasonably expect under the Agreement.
- 14.4 If Climalux performs the installation of its Products in the Object of the Buyer, Climalux will, subject to the provisions of this article, only accept liability for damage the Object if such damage results from an attributable failure or negligence of the Climalux, its personnel or subcontractors in the performance of the agreed work.
- 14.5 The limitations of liability in Articles 14.2 and 14.3 do not apply if and insofar as Climalux's liability for the damage in question is insured and an amount is paid out under the applicable insurance policy. Under no circumstances will Climalux enforce its rights under the insurance policy if it is held liable by the Buyer.
- 14.6 Climalux's liability under this article will in no case exceed the amount paid out under the liability insurance policy taken out by Climalux in the relevant case. If and insofar as, for whatever reason, no payment is made under such insurance and Climalux can nevertheless be held liable, then the liability will be limited to the amount invoiced by Climalux or, if it concerns damage to the Object of the Buyer, limited to the agreed amount of the installation/

processing that has been applied.

The damage for which Climalux is liable up to the said maximum will be limited to direct material damage and personal injury. Climalux accepts no liability for property damage and consequential damage.

- 14.7 Climalux has taken out liability insurance to cover the liability referred to in this article. When entering into the Agreement, it may be agreed, if considered desirable, that the liability of the Climalux for damage attributable to Climalux, its personnel or subcontractors caused to the Object, its inventory, persons or property of personnel of the Buyer will be fixed at a higher amount per event. The additional costs incurred by Climalux in insuring this extension of liability will, unless otherwise agreed, be charged to the Buyer.
- 14.8 Climalux accepts no liability for damage, in whatever form, caused by the activities carried out by third parties for the execution of the Agreement that do not fall under its responsibility, or caused by the products supplied by third parties for the execution of the order.
- 14.9 Climalux accepts no liability for damage caused by subordinates, helpers or other third parties. The Buyer will indemnify both Climalux and the (legal) persons referred to under this provision against possible claims by third parties.
- 14.10 Climalux accepts no liability for damage if installation of the system has not been carried out by a recognised installer.
- 14.11 Climalux accepts no liability for the consequences of using products prescribed by the Buyer. This risk falls entirely on the Buyer. Nor does Climalux accept any liability damage caused by errors or shortcomings in data provided by or on behalf of the Buyer, or for damage resulting from an inherent defect of the Object.
- 14.12 If in the execution of the order materials are used or consumed or (waste) substances are created, Climalux accepts no liability for damage caused by such materials or (waste) substances, whereby the Buyer indemnifies Climalux against claims from third parties in this respect, including any violation of locally applicable regulations. The Buyer remains the owner and responsible for where and how the Buyer intends to dispose of the used or consumed materials and/or waste materials.
- 14.13 The stipulations in the above articles exclude the liability of Climalux insofar as this is not contrary to mandatory statutory provisions and only insofar as on the part of Climalux there is no intent and/or deliberate recklessness.
- 14.14 The Buyer indemnifies Climalux against claims by third parties in respect of damage relating to or arising from (the use of) Products delivered or work performed by Climalux, unless such damage is caused by intent or gross negligence on the part of Climalux.
- 14.15 The Buyer will report any damage in writing to Climalux within 14 days after the occurrence of the damage. This written report will contain at least an accurate description of the time and place where the damage was observed, the cause and perpetrator of the damage as well as the nature and severity of the observed damage. In doing so, the Buyer has the duty to limit the damage and will inform Climalux of the measures taken. Late notification will result in the forfeiture of the claim for compensation.

ARTICLE 15. ATTRIBUTABLE FAILURE, SUSPENSION AND TERMINATION

- 15.1 If the Buyer has failed imputably, in whole or in part, in the fulfilment of the obligations arising from any Agreement entered into with Climalux, as well as in the event of bankruptcy, or application for bankruptcy, or if the Buyer has filed or intends to file a start-of-procedure declaration as referred to in the Court Approval of a Private Composition (Prevention of Insolvency) Act (Wet homologatie onderhands akkoord), or application is sought or obtained of the Debt Restructuring (Natural Persons) Act (Wet Schuldsanering Natuurlijke Personen), or suspension of payment on the part of the Buyer or application for such suspension of payment or in the event of cessation or liquidation of its business, or if its assets are threatened with attachment or (if the Buyer is a natural person) if it dies, takes up residence abroad or loses the free administration of its assets, it is deemed to be in default by operation of law without notice of default being required. Climalux will then be entitled to terminate the Agreement in whole or in part, or to suspend the performance thereof, without Climalux being liable for any compensation or guarantee and without prejudice to Climalux's other rights. Climalux will be entitled to claim payment from the Buyer of costs, damage and interest already incurred, including the profit lost by Climalux, caused by the default of the Buyer.
- 15.2 If of prevention or hindrance of the execution of the Agreement due to force majeure, Climalux is entitled to suspend the implementation of the Agreement. If work to be performed (periodically) cannot be carried out

or can only be carried out in part during a period due to force majeure, no discount will be applied to the total price agreed for that period. If the force majeure situation lasts longer than 3 months, both Climalux and the Buyer are entitled to terminate the Agreement in whole or in part. This will be notified to the other party in writing.

- 15.3 Force majeure will include all involuntary disturbances or impediments making the performance of the Agreement more costly or difficult or rendering execution of the Agreement unreasonable, such as storm damage and other natural disasters or, at the sole discretion of Climalux, pandemics, unworkable weather, floods, fire, or other destruction in factories or warehouses, hindrance by third parties, full or partial strikes, lockouts, both here in the country and in the country of origin of materials, war or danger of war, full or partial mobilisation state of siege, riots, sabotage, loss of or damage to materials during transport, illness of irreplaceable employees, excessive absenteeism of personnel, extraordinary circumstances such as export and import bans, obstructive measures of any government, failure to obtain a permit necessary for the execution of the work (in a timely manner), lack of or malfunction and in means of transport, no or late delivery of goods by suppliers, failure of electricity and in general all circumstances and events beyond the control or control of Climalux. Force majeure further includes the situation that Climalux cannot or may not use its resources as a result of an infringement of any Dutch or foreign intellectual or industrial property right established in or out of court.
- 15.4 Climalux is entitled to claim payment for Products delivered and/or work performed and costs incurred in the execution of the Agreement concerned before it became aware of the circumstances of force majeure.
- 15.5 Climalux is also entitled to invoke force majeure if the circumstance causing force majeure occurs after its performance should have been delivered.
- 15.6 In case of termination or suspension of the Agreement by Climalux as a result of force majeure, it will not owe any compensation.

ARTICLE 16. PAYMENT

- 16.1 Payments will be made within thirty (30) days of the invoice date, unless another term is stated on the invoice or agreed otherwise in writing. If of late payment, the Buyer will be immediately in default without any further notice of default being required.
- 16.2 Payments will be made in Dutch currency (unless otherwise agreed in writing) without any deduction or set-off, at the offices of Climalux or into an account to be designated by Climalux.
- 16.3 Complaints, of whatever nature, never give the Buyer the right to refuse or suspend payment of an invoice either in full or in part.
- 16.4 Climalux is at all times entitled to require adequate security from the Buyer for payment of all that the Buyer owes or will owe to Climalux. If the Buyer fails to provide satisfactory security required by Climalux, Climalux will be entitled either to suspend the execution of the Agreement or to terminate it. With regard to suspension and termination of the Agreement, the provisions of Article 15 apply accordingly.
- 16.5 Climalux is at all times entitled to demand full or partial advance payment from the Buyer. If the Buyer fails to provide the requested advance payment, Climalux will be entitled either to suspend the conclusion of the Agreement or to terminate it. With regard to suspension and termination of the Agreement, the provisions of Article 15 apply accordingly.
- 16.6 If payment of an invoice has not taken place within the payment term, the Buyer is legally in default without any notice of default being required. In such a case Climalux will be entitled to charge the statutory commercial interest plus 3% on top of the amount due from the due date, whereby a part of the month will be calculated as a full month.
- 16.7 All costs relating to the collection of any amount owed by the Buyer to Climalux (judicial or extrajudicial) will be borne by the Buyer. Extrajudicial collection costs will be due by the Buyer in any case where Climalux has engaged a third party for collection. These costs amount in any case to 15% of the amount to be collected with a minimum of €500 (in words: five hundred euro). If the actual extrajudicial costs incurred by Climalux exceed this amount, the Buyer will compensate Climalux in full. The mere fact that Climalux has engaged a third party demonstrates the size of and the obligation to pay the extrajudicial costs.
- 16.8 Payments made by the Buyer to Climalux go firstly to reduce the judicial and extrajudicial costs incurred by Climalux, then to reduce the interest accrued and finally to reduce the principal, whereby in the event the Buyer has left several invoices of Climalux unpaid, the first priority is to reduce the most recent invoice.
- 16.9 If the Buyer belongs to a group as referred to in Section 2:24b Dutch Civil Code, Climalux is entitled to apply the payment received from the Buyer to

the deduction of what is receivable by Climalux on any account whatsoever from legal entities or companies belonging to this group, whereby the provisions of the preceding paragraph apply accordingly.

- 16.10 If Climalux pays the Buyer fair compensation after acceptance of complaints, the amount of such compensation will be deducted from Climalux's claim against the Buyer or the group to which the Buyer belongs in accordance with paragraphs 8 and 9 of this article. If Climalux no longer has a claim against the Buyer, the amount will be refunded to the Buyer.

ARTICLE 17. RETENTION OF TITLE

- 17.1 Climalux retains title to the Products sold to the Buyer until the invoices relating to the Products have been paid by the Buyer. Climalux is entitled, without further notice, to take back the Products, insofar as they have not been consumed, after the due date of the invoices sent by it to the Buyer in respect of such Products has expired.
- 17.2 As long as the Buyer has not paid in full all that it owes to Climalux, it is not entitled to dispose of the Products delivered by Climalux under retention of title, to create a pledge thereon or otherwise encumber them for the benefit of a third party.
- 17.3 The Buyer will at Climalux's first request to hand over the Products delivered under retention of title to Climalux. Upon entering into the Agreement, the Buyer grants Climalux an irrevocable power of attorney to recover its property or have it recovered from the place where it is located or to inspect it or have it inspected. The Buyer will grant Climalux all access required in this respect.
- 17.4 All costs incurred by Climalux as a result of this Article 17 will be for the risk and account of the Buyer.

ARTICLE 18. CONFIDENTIALITY

- 18.1 The Buyer commits to confidentiality concerning all confidential information that it receives about Climalux's business as well as concerning the content of the Agreement and also imposes this obligation on all its engaged employees, subordinates and third parties.
- 18.2 At Climalux's first request, the Buyer will return to Climalux the property of Climalux, including confidential information and copies or other reproductions thereof.

ARTICLE 19. PROCESSING OF PERSONAL DATA

- 19.1 Within the framework of the performance of the Agreement, it is necessary for parties to process personal data within the meaning of GDPR such as, but not limited to, name, email addresses and telephone numbers. The parties are not entitled to use the personal data for other purposes than for the execution of the Agreement. Both the Buyer and Climalux are in this case in principle always both data controllers within the meaning of the General Data Protection Regulation (hereinafter: GDPR) in respect of the personal data provided by or on behalf of the Buyer to Climalux unless Climalux qualifies as a processor within the meaning of the GDPR.
- 19.2 If Climalux acts as processor within the meaning of the GDPR in the implementation of the Agreement, a separate processor's agreement will be submitted for signing which complies with the legal requirements of the GDPR.
- 19.3 The parties are at all times under an independent obligation to comply with the GDPR and other applicable laws and regulations as well as any applicable contractual or internal obligations in the field of the protection of personal data, including, but not limited to, taking appropriate security measures, dealing with requests from data subjects in a timely manner and informing data subjects with respect to the processing of personal data.
- 19.4 The parties guarantee each other that they, as controllers, lawfully dispose of personal data referred to in the first paragraph and are authorised to provide such data to the other party. The parties therefore indemnify each other against all claims of the parties concerned and third parties in respect of such personal data, except for that for which a data controller itself is liable under the GDPR. For exchanging parties which are both data controllers, there is no legal obligation within the meaning of the GDPR to make further written agreements on the privacy of the data subjects in respect of whom the personal data are exchanged between the parties.
- 19.5 Insofar as personal data are processed by the parties in the context of the Agreement, the parties guarantee that such personal data will be processed in a lawful, proper and careful manner in accordance with the GDPR. Technical and organisational measures will be taken to protect the personal data against loss or any other form of unlawful processing, taking into account the state of the art and the nature of the processing.
- 19.6 The parties will cooperate to the extent possible and relevant when a data subject makes a request to exercise his or her rights such as, but not

limited to, the right to inspect, correct, delete, object to the processing of the personal data and a request for transferability of one's personal data.

- 19.7 The parties will inform each other as soon as possible, within the legal deadlines, of the discovery of a data breach involving personal data of the other. The parties will subsequently keep each other informed of new developments concerning the data breach.
- 19.8 If of a data breach, at least the following information will be provided:
- a detailed description of the data breach;
 - type/species of personal data involved in the data breach;
 - how many individuals' personal data are involved in the data breach;
 - identity of the persons involved in the data breach;
 - the measures taken to mitigate negative consequences for data subjects and to remedy the data breach;
 - the cause of the data breach;
 - the duration of the data breach and the moment of its occurrence.

ARTICLE 20. INDEMNIFICATION

The Buyer indemnifies Climalux against third party claims based on product liability due to a defect in a product supplied by the Buyer to a third party incorporating Products learned by Climalux, except if and to the extent that the Buyer proves that the damage was caused by the Products supplied by Climalux.

ARTICLE 21. DISPUTES

- 21.1 All disputes, including those considered as such by only one party, arising out of or relating to the relations between Climalux and the Buyer will be heard by The Hague District Court, seated in The Hague, without prejudice to the authority of Climalux to sue the Buyer before the court of the Buyer's place of residence or domicile. This provision also applies in the event of international relations between Climalux and the Buyer. This clause is exclusively for the benefit of Climalux.
- 21.2 All Agreements to which these General Conditions apply are exclusively governed by Dutch law, with the exception of any (future) international regulation whose effect cannot be excluded by the parties.
- 21.3 If a dispute arises concerning the interpretation of these General Conditions, the Dutch language version thereof will prevail.
- 21.4 Any legal claim of the Buyer will lapse after one year after the right of action has arisen for the Buyer, to the extent no shorter expiry period applies under any provision of these General Conditions.