

# GENERAL TERMS AND CONDITIONS OF SALE AND SERVICE



These General Terms and Conditions define the conditions under which Calorie Fluor (hereinafter referred to as "Calorie Fluor") sells Products and/or invoices Services to its Customers. These terms and conditions apply notwithstanding any provisions to the contrary contained in the Customer's general conditions of purchase or in any other document issued by the Customer, unless otherwise agreed in writing between the parties.

## ART. 1 : DEFINITIONS

For the purposes of these General Terms and Conditions and the agreements to which they apply:

- The term "Customer" refers to any person or entity ordering Products and/or Services from Calorie Fluor;
- The term "Deliverable" refers to the result of the Service provided to the Client by Calorie Fluor, with the exception of Products;
- The term "Calorie Fluor" refers to the company Calorie Fluor that invoices the Services or sale of Products to the Customer;
- The term "Order" refers to the Purchase Order modified or not, and accepted, by Calorie Fluor in writing;
- The term "Product" refers to any product supplied to the Customer by Calorie Fluor;
- The term "Purchase Order" refers to any document used by the Customer to order Products and/ or Services from Calorie Fluor. Purchase Order submission implies the acceptance of these General Terms and Conditions;
- The term "Service" refers to any service provided to the Customer by Calorie Fluor.

These terms have the same meaning in both the singular and plural forms.

## ART. 2 : ORDERS

Purchase Orders must be sent to Calorie Fluor by fax, email, post or electronic data exchange.

Purchase Orders submitted by the Customer are only binding once they have been confirmed by Calorie Fluor in writing.

Once confirmed by Calorie Fluor, each Order is considered firm and definitive and may not be cancelled, modified or postponed without Calorie Fluor's written consent.

Calorie Fluor may not be held liable for any shortcomings, mistakes or other errors in the Customer's statements.

No modification of the Product specifications by the Customer may be considered accepted without Calorie Fluor's express prior written consent.

The Customer may only transfer the rights and obligations arising from an Order to a third party if said third party has accepted the provisions of these General Terms and Conditions and if the Customer has obtained Calorie Fluor's express consent.

The Customer acknowledges to have checked the suitability of the Products and/or Deliverables to its needs. In case of doubt or need of information, the Customer undertakes to inform Calorie Fluor in order to obtain all necessary information on the Products and/or Deliverables so the Customer can order them well informed.

## ART. 3 : INTELLECTUAL PROPERTY

Notwithstanding any provision to the contrary, all processes and techniques, as well as all knowledge and intellectual property rights implemented, developed or improved by Calorie Fluor in the context of Service performance and/or Product distribution and manufacture, remain its property or that of its suppliers.

## ART. 4 : PRICES – PAYMENT TERMS

All Orders for Service(s) and/or Product(s) will be payable net and without discount within thirty (30) days of the invoice date, unless otherwise agreed upon in writing by the parties.

Calorie Fluor reserves the right (i) to suspend or cease its Service and/or Product delivery, and/ or (ii) to require payment in advance of any Order, including any other order, in the event of any non-payment as of the due date.

The Products and/or Deliverables will be the property of the Customer, subject to payment of all sums due by the Customer to Calorie Fluor under the corresponding Order.

### 4.1 PRICES

The price indicated on the Order is considered to be the price that Calorie Fluor and the Customer have agreed upon.

Unless otherwise stated on the invoices issued by Calorie Fluor, no Customer discount will be granted for early payment of all or part of the sums due.

Prices are net and exclusive of tax.

Unless the parties agree to an Incoterm within the framework of a special contract that derogates from these General Terms and Conditions, any tax, bank charges, customs duties or other charges payable pursuant to regulatory provisions will be borne by the Customer.

If the company is placed under safeguard or receivership proceedings, deliveries will be paid, at Calorie Fluor's discretion, in cash or in advance, in accordance with applicable legal provisions.

### 4.2 LATE OR NON-PAYMENT

Any sum not paid as of the due date:

- renders all amounts owned to Calorie Fluor immediately payable, including those that are not yet due;
- authorises Calorie Fluor to suspend Service performance and/or Product delivery;
- authorises Calorie Fluor to recover Products that have not been paid for;
- results in the application of an interest rate equal to the main refinancing rate in force of the European Central Bank in force at the due date mentioned on the invoice, plus ten (10) percentage points.

Calorie Fluor will invoice the Customer for recovery costs pertaining to all or part of the sums due, it being understood that the minimum recovery fee is forty (40) euros for each invoice.

## ART. 5 : DELIVERY

### 5.1 TERMS AND CONDITIONS – TRANSPORT

The Products and/or Deliverables will be delivered to the place indicated in the Order. In the absence of such indications, the Products and/or Deliverables will be delivered FCA (Incoterms 2020).

### 5.2 DELIVERY TIMES

Delivery of the Products and/or Deliverables will, in principle, be made within the time period indicated in the Order.

Calorie Fluor shall do its utmost to respect delivery times. Nonetheless, delivery times are solely given as an indication. Therefore, late deliveries do not justify Order cancellation nor may they give rise to damages. Delivery dates may be postponed due to execution difficulties, an Order change accepted by Calorie Fluor, a shortage of raw materials, transport constraints or other reasons. The Customer will be informed of any delays as soon as possible. Compliance with the indicated delivery time is, in any event, subject to faultless cooperation between the parties. In this respect, the Customer agrees to provide Calorie Fluor with all necessary Order-related information.

In the event of a Product and/or Deliverable delivery delay due to the Customer, Calorie Fluor is authorised to invoice the Customer for costs related to the storage of said Products and/or Deliverables, plus any additional transport costs.

### 5.3 CONFORMITY

The Customer must check the qualitative and quantitative conformity of the Products and/or Deliverables as soon as they are received.

Should any Products be damaged and/or missing, the Customer must list its reservations and identify the damaged and/or missing Products, as well as their quantities, on the carrier's waybill and in the presence of the carrier. The Customer must also send, by registered letter with acknowledgement of receipt, confirmation of its reservations to the carrier as well as to Calorie Fluor within three (3) working days of receipt of said Products.

Claims for nonconformities that were not discovered within the time limit stipulated above, despite careful examination, must be made in writing and must reach Calorie Fluor within fifteen (15) working days of the discovery of said non-conformities and, in any event, no later than thirty (30) days after the Customer has received the Products and/or Deliverables concerned.

It being understood that any claims made once the Customer has resold the Products and/or Deliverables, or has transformed or treated them in any way, are null and void.

If no complaint has been made by the Customer within the deadlines indicated above, this will be considered as an absolute and unconditional waiver of its right.

If the Customer can prove that the Products and/or Deliverables do not comply with the specifications, Calorie Fluor may, at its discretion, replace the non-compliant Products and/or Deliverables at its own expense or refund the price paid by the Customer for said Products/ Deliverables.

## ART. 6 : WARRANTY – LIABILITY

Risks related to the Products and/or Deliverables are transferred to the Customer upon delivery according to the agreed Incoterm. If delivery is postponed at the request of the Customer, or for any other reason beyond Calorie Fluor's control, risks related to the Products and/ or Deliverables will be transferred to the Customer on the initially scheduled delivery date.

Subject to the below mentioned limits, the conformity of the Products with the specifications is warranted during one (1) month starting from the date of delivery of the Products, subject to any other duration indicated in the offer, contractual document or any other document provided by Calorie Fluor.

The Products and/or Deliverables are handed over "as is". Calorie Fluor makes no express or implied warranty as to their potential market value or fitness for a particular purpose. The Customer acknowledges that Calorie Fluor cannot foresee all the conditions under which Products and/or Deliverables may be used. Consequently, it is the Customer's responsibility, prior to any use, to carry out its own sampling tests to determine the safety and suitability of the Products and/or Deliverables in relation to its needs. Likewise, it is the Customer's responsibility to ensure that use of the Products and/or Deliverables for a given purpose, whether alone or in combination with other products complies with the expected needs of the Customer. Calorie Fluor shall not be liable for any claim of the Customer on the Products and/or Deliverables, in case the Customer did not carry out the aforementioned tests. Likewise, it is the Customer's responsibility to ensure that use of the Products and/or Deliverables for a given purpose, whether alone or in combination with other products, is not likely to infringe any pre-existing intellectual property rights. All information communicated by Calorie Fluor is given without any explicit or implicit guarantees.

The liability of Calorie Fluor is limited for whatever cause, except for the personal injury and gross negligence, to direct damages. In any way, the liability of Calorie Fluor is limited to the amount of the Order for the supply of the Products or to twice the amount of the Services performed by Calorie Fluor. The liability of Calorie Fluor shall in no way cover consequential, incidental, special, punitive and indirect damages, including, without being limited, loss of business, loss of profits, loss of opportunity, commercial loss, revenue shortfall, claims from third parties etc.

The Client undertakes to guarantee and hold harmless Calorie Fluor against any third parties' or its own insurers' direct and indirect claims related to the fulfilment of our obligations arising from this Purchase Order or any Order resulting therefrom, and which contravenes the conditions and limitation of responsibility of this clause.

Calorie Fluor is not responsible for any information provided by the Client which is incorrect or is protected by a third party's intellectual property right. The Client remains responsible regarding the result it seeks and for any omission in the information it gives.

The Client guarantees Calorie Fluor against all the consequences arising from infringement proceedings concerning the use of data or drawings that it transmitted.

The Parties expressly agree to exclude any legal warranty, such as the guarantee of latent defects and the guarantee of defective products if the applicable law permit it.

In the event that Calorie Fluor or one of its officers, employees or agents is subject to a summons, a court order, or any other request from a state authority or a court of law in the context of legal proceedings against the Customer, the latter shall indemnify and reimburse Calorie Fluor for all costs and expenses, including but not limited to reasonable legal fees and court costs, incurred by Calorie Fluor and/or one of its officers, employees or agents in connection therewith.

The warranty ceases to be valid automatically:

- In the event of a damage resulting from improper storage conditions, poor maintenance or lack of maintenance or lack of inspection or incorrect installation made by the Customer or a third party, and in general resulting from any handling that does not conform to the contractual specifications or to the standard practice of the profession;
- For the defects resulting, either in whole or in part, from normal wear and tear of the Product, from the deteriorations or accidents attributable to the Customer or to a third party;
- For the defects or non-conformities which have not been subject to an express reclamation by the Customer upon the delivery of the Product according to the dispositions of article 5.3;
- In the event of any acts or changes on the Products by the Customer or a third party;
- In the event of a force majeure event ;
- In the event of any non-payment, even partial.

#### ART. 7 : PACKAGING

Returnable, rented or loaned packaging remains the property of Calorie Fluor and its use is exclusively restricted to containing the Product for which it is intended. The Customer agrees to refrain from refilling the packaging, even with the original Products, with the exception of transfer and recovery packaging specially designed for this purpose and only (i) if the Customer is a specialist in the refrigeration and/or air conditioning sector and (ii) if the Customer holds a certificate of capacity. The Customer, as well as any other user, is solely responsible for any accidents or damage that may occur as a result of the packaging's use, transport and/or storage. Failing this, the Customer must inform Calorie Fluor prior to any return, and the latter will be entitled to invoice the Customer for emptying and associated operations. Recovery and transfer packaging may only hold the refrigerants for which they are intended. The Customer is responsible for checking the test pressure of the recovery and transfer packaging and the quantity of refrigerants introduced into the recovery and transfer packaging.

Liquefied gas packaging is subject to a deposit and rental scheme.

The rental rate applies from the time the packaging is dispatched from Calorie Fluor's plants or depots until it is returned to them.

In the event of non-return of the packaging according to Calorie Fluor's conditions and/or within the agreed upon time frame, as well as in the event of destruction and/or deterioration of said packaging, Calorie Fluor reserves the right to charge the Customer for the sales price of the packaging, plus applicable taxes, without prior notice.

#### ART. 8 : AUTHORISATIONS

The use of certain Products supplied by Calorie Fluor is subject to authorisation. The Customer acknowledges and declares that it holds the necessary authorisations to use the Products ordered from Calorie Fluor and agrees to comply with all applicable laws and regulations in this respect. Likewise, the Customer agrees to comply with all laws and regulations related to its activities, including any amendments thereto, at its own expense. The Customer also agrees to comply with all conditions imposed upon it as regards applicable licences, registrations, permits and approvals.

#### ART. 9 : INFORMATION

The Customer acknowledges that it is aware of the potential risks of Product use and that it is responsible for ensuring that its employees—as well as any other persons coming into contact with the Products—are informed of these risks. The Customer acknowledges having received the Product data safety sheets and agrees to distribute them to its employees as well as any other persons potentially involved in Product use. Additional information is available from Calorie Fluor upon request.

#### ART. 10 : SUBCONTRACTING

Unless otherwise stipulated in the Order, Calorie Fluor may subcontract all or part of Service performance and Product manufacture and/or supply to a third party with comparable quality standards and bound by equivalent confidentiality rules.

#### ART. 11 : FORTUITOUS EVENTS AND FORCE MAJEURE

The following are contractually assimilated to force majeure and may constitute grounds for the termination or suspension of one of the parties' obligations: any event that the defaulting party could not reasonably have foreseen or controlled on the date hereof in view of the inevitable, unforeseeable and uncontrollable nature of the event in question, particularly government actions, war, terrorism, raw material shortages, failure on the part of the Parties' suppliers or subcontractors, transport interruptions, shortages or social actions, viral contamination, epidemics, earthquakes, fire, explosions, flooding, strikes, lockouts, embargoes, fortuitous occurrences, and any other cause beyond the reasonable control of the defaulting party, provided that the party invoking the force majeure event has promptly informed the other party and has made reasonable commercial efforts to avoid or remedy said force majeure event and provided that neither party may be obliged to settle a disruption or industrial dispute. If the force majeure event persists ninety (90) days after notification, either party may terminate the Order by registered letter with acknowledgement of receipt or equivalent, and said termination will take effect immediately.

#### ART. 12 : PERSONAL DATA

In the course of the relationship subject to these General Terms and Conditions, each party may have access to and use the personal data of employees, subcontractors, customers and suppliers (the "Data Subjects") of the other party (hereinafter referred to as "Personal Data"). Said Personal Data is used to enable the effective functioning of the contractual relationship. The Personal Data retention period must strictly adhere to the time period needed to achieve the above-mentioned purpose. Said Personal Data, whether provided or collected by a party, must be used in accordance with the provisions of the General Data Protection Regulation ("GDPR"). In accordance with the GDPR, Data Subjects have the following rights: access, rectification, deletion, opposition and updating. Under certain conditions, Data Subjects also have the right to portability and limitation of processing. In order to exercise these rights, the Supplier may write to Calorie Fluor at the following address: [contactRGPD@calorie-fluor.fr](mailto:contactRGPD@calorie-fluor.fr).

If the Supplier believes that its data protection rights have not been respected after contacting Calorie Fluor, the Supplier may submit a complaint to the relevant control authority.

#### ART. 13 : FIGHT AGAINST CORRUPTION

Each Party shall ensure that its officers, employees, agents, suppliers, contractors and any other person providing services for or on its behalf do so in accordance with all applicable laws, statutes, regulations and codes related to the fight against corruption, including the Sapin II Law, the duty of due diligence, the US Foreign Corrupt Practices Act of 1977, and the UK Bribery Act of 2010.

When the Customer is not the end-user of the Products, the Customer undertakes to share with Calorie Fluor all information regarding the end-user and to comply with any aforementioned international applicable regulations.

#### ART. 14 : MISCELLANEOUS

Failure on the part of the Customer or Calorie Fluor to exercise a right, on any occasion, does not imply a waiver of the exercise of that right on another occasion.

Except in the case of prior written opposition by the Customer, Calorie Fluor is authorised to use the Customer's name in its commercial references, press releases and advertising leaflets, as well as on its website.

To the extent possible, these General Terms and Conditions will be interpreted in accordance with the law. If any of the clauses of these General Terms and Conditions are declared null and void by a final court decision, the nullity of this clause will not result in the nullity of these General Terms and Conditions: all other provisions will thus remain in force and the nullified clause be replaced by another clause, resulting in the same legal and economic consequences, by mutual agreement.

#### ART. 15 : JURISDICTION AND APPLICABLE LAW

These General Terms and Conditions are to be governed and interpreted in accordance with the law of France. Application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

In the event of a dispute between Calorie Fluor and the Customer arising from or pertaining to these General Terms and Conditions, the parties shall attempt to resolve their disagreement by negotiation during a thirty (30) day period. In the absence of an amicable agreement, the dispute will be submitted to the exclusive jurisdiction of the court of France.