

Article 1 - Application of the general conditions of purchase - Opposability

These general conditions shall apply to all purchases of products ("Products") or services ("Services") made by the companies of the Montagne et Neige Développement group, hereinafter referred to as "MND", for lack of a written contrary agreement of the Parties. Products and Services will be referred to as "the Object of the Order".

When the Supplier accepts the MND's orders, it excludes any contrary measure, except particular conditions of purchase or the accepted order that complete, and insofar as they will be the contrary, prevail on the present ones.

Article 2 - Respecting the regulations

The Object of the Order must be in conformity with the current legal regulations, especially concerning:

- the products quality, composition, presentation and labelling;
- the employment law;
- the clauses of the international Convention of the United Nations on the Rights of the Child on November, 20th 1989, which forbid children's work when they are less than fifteen years, and, in a general way, the principles listed in the "United Nations Global Compact" concerning human rights, employment and environment law. For more information, see: www.unglobalcompact.org/Portal/Default.asp.

Article 3 - Order

MND could indicate in its order, the instructions, detailed or not, concerning desired means of transport, methods of delivery and delivery times, and concerning desired quantities and specifications.

The order is deemed to be accepted and the contract signed when the Supplier receives the order, unless the Supplier notifies written reserves to MND within the four days from date of order receipt. If need be, the order is deemed to be accepted and the contract signed when receiving an order confirmation or when it is executed.

MND reserves the right to change an order until it is done. If it is not a material change and does not modify the delivery cost, the purchase price could not be changed. Failing that, the parties commit themselves to negotiate immediately and honestly a reasonable price that will reflect that change.

Article 4 - Delivery

4.1 Packaging(s)

The Object of the Order must be, on one hand, packaged according to the MND's instructions, and on the other hand, properly and sufficiently packaged by the Supplier to ensure a safe transport and handling, such as installation on pallets, in normal and acceptable conditions.

The Supplier is responsible for breakings, missing elements and damages coming from an inadequate packaging.

Parcels will be clearly identified by a reference corresponding to the MND's order.

4.2. Place

For lack of contrary express clause, the delivery will be made DDU (2000Incoterms) to the address of the company that will have ordered.

All deliveries will have a description of the delivered Object of the Order and the reference and comments of the corresponding MND's order.

4.3. Delivery times

The planned delivery date, indicated on the accepted order, is imperative.

It is the delivery date of the Products to the required place in the event that the Order concerns Products or the receipt date of Services by MND or by the MND's customer in the event that the Order concerns a Service.

The Supplier commits himself to write immediately to MND about any event or circumstance that could impact on the punctual execution of his obligations. The execution of this obligation does not exempt the Supplier from its responsibility.

In case of delay, compared to the planned delivery time in the accepted order, the Supplier will have to take all reasonable and useful measures including an additional work (hours, days, additional teams) and/or the use of other means of transport. The additional costs will be borne by the Supplier.

In case of delay, compared to the established delivery times in the accepted order, MND will have the choice between a penalty equal to 2% of the purchase price of the Object of the Order concerned by the late delivery for every begun delay week - this penalty cannot exceed 10% of the price of the concerned Object of the Order - or the cancellation of the order without preventing MND from asking for a compensation of the supported loss. In case of partial delivery, the penalty will be calculated on the whole Products of the Order.

The Supplier will have to pay the penalty planned here on MND's request. This payment is not concerned by possible damages owed to MND.

Article 5 - Transfer of ownership and risks

The transfer of ownership is effective as soon as the Product has been delivered to MND, when the Object of the Order is a Product, and, as the Services are executed, when the Object of the Order is a Service.

However, when Services concern the delivery of material and equipment, the transfer of ownership takes place when they are delivered on site or if payments are made before the delivery, as the payments accumulate.

The Supplier renounces to take advantage of any clause of ownership reserve not expressly accepted by MND. He is answerable for the renunciation of his own suppliers.

However, the transfer of risks will take place at the receipt date of Services by MND when the order concerns the purchase of a Service and during the unloading of Products to the address indicated in the order when it concerns the purchase of Products.

The Supplier commits himself to take out, to a notoriously creditworthy company, a comprehensive insurance for the Object of the Order.

Article 6 - Price - Invoicing

6.1. Price

The price of the Object of the Order is the one indicated on the Orders accepted by the Supplier, according to the article 3, after deduction of possible reductions or discounts given by the Supplier.

It is firm and non revisable, except written contrary stipulation in these present conditions.

For lack of contrary agreement, prices include VAT, any other tax and any cost: duty, postage and packing, insurance...

The Supplier's tariff can be changed once a year. The new prices can come into force only two months after informing MND.

6.2. Invoicing and payment

Invoices, which will be sent to the concerned company of the MND group, must indicate all comments planned by the applicable regulations.

They must also indicate the order number, the means of transport and the destination of the Products.

For lack of contrary agreement, invoices are payable in 60 days net from date of invoice receipt.

Any reduction of the payment time by MND will be subjected to a discount with a negotiated rate, whatever the causes and the origin of this reduction.

6.3. Compensation

MND will inform the Supplier about the possible grievance(s).

The Supplier will have 15 days from receipt of this information to contest the reality of these grievances by sending all necessary written proofs for such a contesting.

Failing that, he will be deemed not to contest the reality of the grievance(s). The MND claim, calculated according to the present conditions, is thus sure, liquid and payable.

At any time, MND will be able to compensate the claims to the Supplier or other company in which he has a part, with the debts he has with them.

Article 7 - Quality - Conformity - Guarantee

The Supplier declares and guarantees that the Object of the Order (i) is in conformity with the order and is manufactured according to the characteristics, technical information or samples that should have been indicated to MND, (ii) is safe and appropriate to the general use, (iii) has a market quality and no defect, (iv) is in conformity with the applicable laws, (v) is labelled indicating the country of origin, in conformity with the applicable rules, (vi) does not damage the intellectual ownership rights (patent, drawing and pattern, brand, know-how, copyright, neighbouring rights...) of third parties.

Except more favourable legal clauses, the Supplier commits himself to guarantee MND, as a conventional extension of the legal guarantee, against any non-quality during a duration indicated on the accepted order, or, failing that, for a minimum period of twelve months. The starting point of the guarantee is the delivery date of the Product and/or the date of the signature of the Service receipt.

A non-quality is a non-satisfaction (defect or fault) of a specified requirement in a contractual document (specifications of consultation, technical specifications, numerical definition, drawing...).

As MND chooses, the Object of the Order that is not in conformity or with defects, will be (i) returned to the Supplier at his own expense, return followed by the reimbursement from the Supplier of the purchase price of the said Object of the Order and of any cost and expense of this return, (ii) replaced by the Supplier at his own expense, or (iii) manufactured again by MND or the Supplier at his own expense.

If only a few products are not in conformity, MND will anyway ask for the application of the options (i) and (iii) to the whole delivery.

For the replaced or repaired Object of the Order, the time delay begins from the receipt of the Object of the Order concerning by the replacement or the repair.

Clauses in the previous paragraphs apply, without loss of all legal rights and actions and, notably of a request for damages.

Moreover, the Supplier commits himself, for 10 years from date of order, to give replacement and wear parts to MND and to supply the skilled technical staff to repair the Object of the Order.

Article 8 - Inspections

MND can, at any time during business hours, control the production and storage installations of the Supplier to be sure of the great execution of his obligations imposed by the present conditions.

These controls can include random samples of raw materials, products being manufactured or finished products, in order to be sure that the Supplier respects specifications and regulations.

Article 9 - Responsibility

The Supplier guarantees MND against any direct or indirect consequences of complaints concerning MND (including lawyers' fees) and that would be linked to the non-execution by the Supplier of his contractual obligations as defined by the present conditions.

The Supplier commits himself to take out, to a notoriously creditworthy company, an insurance for the financial consequences of the civil liability that could be his, because of physical injuries, material damages and consequential loss, whatever their origin, caused to MND as well as a third party, during the execution of his contractual obligations.

The Supplier will give, on MND's request, an insurance certificate or copy of the said policies and of all their endorsements.

Article 10 - Tolerance

Any tolerance from one party to the other one will not mean a renunciation to take advantage of the whole rights given by the present general conditions or a change of these last ones, notably reproaching a late delivery.

Article 11 - Ownership rights

All drawings, technical documents, photos, samples, specifications concerning the Object of the Order, or materials and components supplied by MND before or after the coming into force of the present conditions will be and will remain the MND's ownership and will be used by the Supplier only for the order.

For lack of a previous and written contrary express clause from MND, MND will have the intellectual property rights relating to the Services subject to by the present contract. The price of Services includes the compensation of the transfer of the related intellectual property rights.

The Supplier commits himself to keep separately any good (material, component or product...) belonging to MND and especially the prepaid products in such a way that they can always be identified as MND's products. The above-mentioned elements will have to be insured by the Supplier which keeps them. On MND's request, he commits himself to send them back immediately.

Article 12 - Force majeure

In case of "force majeure" or risk of arrival of a "force majeure" recognized reasonably by the other party, parties will be able to stop the realization of their obligations.

If a case of "force majeure" or a fortuitous case lasts more than two months, accepted orders would be cancelled on one Party's initiative, without compensation for both parties.

Are considered as cases of "force majeure": wars, riots, government fiat, import and export restraints, natural disasters such as earthquakes, storms, floods, strikes without notice, fires or unpredictable similar incidents.

Article 13 - Cancellation - Annulment

In case of non-execution of his obligations by the Supplier, MND could cancel current orders, thirty days after a formal demand by registered letter with acknowledgment of receipt that has not receive an answer without committing its responsibility.

Article 14 - Confidentiality - Specific development

The Supplier commits himself not to divulgate information, drawings, patterns, samples, instruments, technical and/or business know-how and any other confidential information he knows and to use them only to execute the obligations coming from the present conditions.

When the Object of the Order was subjected to a specific development for MND, it is expressly agreed between parties that, except previous and written express agreement of MND, the Supplier abstains, during the validity of the Order and during one year from its execution, to supply in a direct and indirect way, similar or competing services to the Services and/or products similar or competing to the Products.

Article 15 - Applicable law and competent court

All clauses in the present conditions as well as all contractual operations concerned by these conditions are subject to French law.

All disputes concerned by the present general conditions will be subject to the commercial court of the MND registered address, which is expressly accepted by the Supplier.