

POLYTROPIC SAS
GENERAL TERMS AND CONDITIONS
Last update : NOVEMBER 2024

SECTION 1 - Scope

1-1. In accordance with section L 441-1 of the French Commercial Code, these general terms and conditions (hereinafter referred to as "GTC") constitute the sole basis of the commercial relationship between the parties.

1-2. The purpose of the GTC is to define the conditions under which POLYTROPIC, a simplified joint stock company with share capital of €100,000, whose registered office is located at 4 Chemin des Eclapons, 69390 Vourles, France, registered in the Lyon Trade and Companies Register under number 423 815 125 ("the Supplier") provides professional Purchasers ("the Purchaser") who request it, via the Supplier's website, by direct contact or on paper, all the products marketed by the Supplier, and in particular heat pumps for swimming pools or residential heat pumps, dehumidifiers for swimming pools, their accessories and the software integrated into the heat pumps ("the Products").

1-3. The GTC apply without restriction or reservation to all sales made by the Supplier to the Purchasers in the same category, regardless of any terms that may appear in the Purchaser's documents, and in particular the Purchaser's general terms and conditions of purchase, which shall be inapplicable. They cancel and replace all previous conditions and may be modified by the Supplier at any time. Any order for Products implies the Buyer's acceptance of these GTC, without restriction or reservation.

1-4. In accordance with current regulations, these GTC are systematically communicated to any Purchaser who requests them, via the Supplier's website, by direct contact or on paper. They are also communicated to any distributor (excluding wholesalers) prior to the conclusion of a single agreement as referred to in article L 441-3 of the French Commercial Code, within the legal time limits.

1-5. The information contained in the Supplier's catalogues, prospectuses and price lists is given for information only and may be revised at any time. The Supplier is entitled to make any changes it deems necessary.

1-6. In accordance with current regulations, the Supplier reserves the right to derogate from certain terms of these GTC, depending on the negotiations conducted with the Purchaser, by drawing up special Conditions of Sale. In the event of any contradiction between the GTC and the Special Conditions of Sale, particularly regarding warranties, the latter shall prevail.

1-7. In addition, the Supplier may draw up categorical GTC, derogating from the present GTC, depending on the type of customer in question, determined on the basis of objective criteria. In this case, the categorical GTC apply to all operators meeting these criteria.

SECTION 2 - Orders

2-1. All orders must be confirmed in writing, by means of an order form duly signed by the Purchaser, regardless of the method of order taking (hereinafter referred to as the "Order"). An Order must mention: the invoicing address, the desired delivery address, the Order number, the Products references and their quantities, as well as the desired delivery date. In the event of incomplete or inaccurate information, the Supplier shall not be held responsible for any errors or delays in processing the Order.

Sales are only valid after explicit written acceptance of the Purchaser's Order by the Supplier, who will ensure, in particular, that the Products requested are available, as evidenced by the Supplier's acknowledgement of receipt of the Order.

2-2. The Order must be sent within a reasonable time before the desired delivery date. Delivery times vary according to the area to be delivered and the means of transport. The Supplier will endeavor to respond to the Order placed within a reasonable period of time, without this period being considered imperative. In the event of temporary unavailability of a Product, the Supplier will decide whether it is feasible to ship the remainder at a later date, depending on the number of units of the Product not supplied. In the event of infeasibility, the Order will be invoiced and paid for in proportion to the number of units of Product actually delivered by the Supplier.

2-3. Any modification or cancellation of the Order may only be made by prior written agreement between the Purchaser and the Supplier.

2-4. No special Order, i.e. for a specific or non-catalog Product, may be cancelled by the Purchaser once the Supplier has started production of the specific Product. However, if the Supplier agrees to cancel the Order for specific Products, it shall have the right to claim from the Purchaser payment of an indemnity equal to forty (40%) % of the sales price excluding VAT of the Order, as indicated on the purchase order.

SECTION 3 - Prices - Discounts and rebates

3-1. The Products are supplied at the prices mentioned in the Supplier's price list on the date of the Order, and, where applicable, in the commercial proposal sent by the Supplier to the Purchaser. These prices may be revised by the Supplier at any time, without prior notice.

These prices are net and in EURO € exclusive of VAT, or any other currency not expressly agreed in writing by the parties, ex work and including packing costs. They do not include VAT in France, eco-participation taxes and any other taxes, transport costs, any customs charges (duties and taxes) and other contributions outside France, nor insurance and specific requests for packaging or transport, which remain the responsibility of the Purchaser.

Special pricing conditions may be applied depending on the specific features requested by the Purchaser, notably concerning delivery terms and deadlines, or payment deadlines and conditions. In such cases, the Supplier will send the Purchaser a special commercial offer. It must be formalized in a purchase order, according to the process indicated in Section 2 to constitute an Order.

The Supplier reserves the right to modify these prices at any time according to economic conditions. The value of the transaction will necessarily be that of the date and time of the Order made by the Purchaser, the Parties acknowledging that they have no remedy in the event of a price decrease or increase subsequent to the Order.

3-2. The Purchaser may benefit from discounts and rebates appearing in the Supplier's price lists, depending on the quantities purchased or delivered by the Supplier at a single time and place, or on the consistency of its Orders.

3-3. Any deposit paid by the Purchaser shall be retained by the Supplier as a lump-sum indemnity in the event of cancellation of the Order at the expense of the Purchaser, without prejudice to any other actions that the Supplier may be entitled to bring against the Purchaser as a result.

SECTION 4 - Terms of payment

4-1. Upon opening of a customer account by the Supplier at the time of conclusion of the first Order, the Purchaser shall pay this first Order in full and prior to shipment. For subsequent Orders, the invoice is payable in full in a single payment within a default period of thirty (30) days end of month by direct debit, from the date of issue of the Invoice, within the limit of the outstanding amount authorized by the Supplier. The term of payment will be stated on the invoice sent to the Purchaser. No discount will be applied by the Supplier for payment made before the date shown on the invoice.

4-2. In the event of late payment, late penalties calculated at a rate equivalent to 3 times the legal interest rate in force on the basis of the amount inclusive of tax of the price appearing on the said invoice, will be automatically and by right acquired by the Supplier, without any formality or prior formal notice. Recovery costs of €40 per unpaid invoice will also apply. These penalties will be payable on receipt of the notice informing the Purchaser that they have been debited.

4-3. Default of payment by the Purchaser authorizes the Supplier, all rights and actions reserved, to suspend performance of all or part of the Order in progress or to terminate without further formality. Without prejudice to the foregoing, in the event of non-payment, the Purchaser shall pay the Supplier, as a penalty clause, a sum corresponding to eight percent (8%) of the amount of the unpaid claim (Article L441-10 of the French Commercial Code).

4-4. Except with the Supplier's explicit, prior and written agreement, and provided that reciprocal receivables and debts are certain, liquid and due, no compensation may be validly effected between any penalties for late delivery or non-conformity of Products ordered by the Purchaser on the one hand, and the sums owed by the latter to the Supplier for the purchase of said Products on the other.

SECTION 5 - Transfer of ownership - Transfer of risk

5-1. The Supplier reserves, until full payment of the price by the Purchaser, a right of ownership on the Products sold, allowing it to repossess said Products, regardless of the date of delivery of said Products.

5-2. On the other hand, the risk of loss and deterioration will be transferred to the Purchaser upon delivery of the Products ordered, i.e. upon departure from the Supplier's premises, aside from the transfer of ownership, and regardless of the date of the Order and payment thereof. The Purchaser acknowledges that it is the carrier's responsibility to make the delivery, the Supplier being deemed to have fulfilled its delivery obligation as soon as it has handed over the ordered Products to the carrier, who has accepted them without reservation. The Purchaser therefore has no remedy against the Supplier in the event of non-delivery of the Products ordered or of damage occurring during transport or unloading.

5-3. Consequently, the Purchaser undertakes, at its own expense, to arrange insurance of the Products ordered, for the benefit of the Supplier, by an ad hoc insurance policy, until full transfer of ownership, and to provide proof thereof to the Supplier at the time of delivery. Failing this, the Supplier shall be entitled to delay delivery until such proof has been provided.

SECTION 6 - Delivery – Acceptance

6-1. The Products purchased by the Purchaser shall be delivered within the delivery period indicated in the acknowledgement of receipt of the Order sent by the Supplier. This delivery time is indicative and does not bind the Supplier. Delivery will be made by delivery to the Supplier's premises, to a shipper or carrier, with the Products travelling at the Purchaser's risk. The Supplier shall not be liable

for any failure or delay in delivery or damage to the Products during transport or unloading attributable to the carrier.

6-2. The Purchaser shall check the condition and conformity of the Products at the time of delivery. Upon acceptance of delivery, the Products delivered by the Supplier shall be deemed conform in quantity and quality to the Order.

Any apparent defect must be immediately recorded in writing on the carrier's delivery form. These reservations must be confirmed by registered letter with acknowledgement of receipt to the carrier within three (3) days, not including public holidays, following delivery in accordance with the provisions of art. L133.3 et seq. of the French Commercial Code. The Purchaser shall jointly inform the Supplier of the reservations made.

Fail for the Purchaser to comply with these formalities, any claim will not be validly accepted.

6-3. Product return

No return of Products will be accepted without the Supplier's prior agreement, as the Supplier does not, as a matter of principle, accept any return of Products.

Any claim concerning a defective Product should be addressed to the Supplier's customer service department, whose contact details are available online or on request.

If the Supplier accepts the return in writing, the Product in new condition must be returned in its original carton within eight (8) days of acceptance by the Supplier.

Return shipping costs are the responsibility of the Purchaser and will not be refund by the Supplier.

Products taken back under the above conditions will systematically be subject to a discount of ten (10) %, excluding initial delivery costs, with a fixed minimum of one hundred (100) €HT to be paid by the Purchaser.

Should the Purchaser fail to comply with these terms, the Supplier shall be entitled to refuse refund of the Products, and the original invoice shall be due in full.

SECTION 7 - Supplier's liability - Warranty - After-sales service

7-1. Warranty

7.1.1. The Supplier's legal warranty on the Products is limited to the non-conformity of the Products with the Order and to the warranty for hidden defects, resulting from a material, design or manufacturing defect affecting the Products delivered and rendering them unfit for use. This warranty is limited to the repair, replacement or refund of non-conforming or defective Products, as well as to the labor cost on the refrigeration part of the Products. The warranty forms an inseparable whole with the Product sold by the Supplier. The Product may not be sold or resold altered, transformed or modified.

7.1.2. The warranty is excluded if the Products have been subjected to abnormal use, or have been used in conditions other than those for which they were manufactured, in particular in the event of non-compliance with the conditions prescribed in the instructions for use. Nor does it apply in the event of deterioration or accident resulting from impact, dropping, negligence, lack of supervision or maintenance, improper installation of the Product, or in the event of transformation or modification of the Product by the Purchaser.

7.1.3. For swimming pool heat pumps, the warranty runs from the date of the Supplier's invoice for the Product. However, in order to avoid delays due to storage and/or transport of the Products, an additional six (6) months may be granted by the Supplier at the Purchaser's request.

For residential heat pumps, the warranty runs from the date of invoicing of the Product by the Supplier. If the Product is commissioned by the Supplier, the warranty runs from the Date of Commissioning.

The customer must provide the Commissioning Report, dated and signed, in order for the warranty claim to be considered.

All Products are guaranteed for a maximum of one (1) year from the date of manufacture, identified by the serial number on the Product. Spare parts offered by the Supplier are guaranteed for one (1) year from their invoice date, provided that they are installed in compliance with current standards and used in accordance with the Supplier's recommendations.

In the event of immobilization during the period of repair or replacement of the Product, no warranty extension will be granted to the Purchaser.

In addition to the legal periods, commercial warranties are included on certain Products. Special conditions apply which are defined in separate documents, available on request.

7.1.4 In the event of non-conformity or hidden defect(s) found by the Purchaser in the Products, the Purchaser must inform the Supplier directly upon discovery in order to establish a diagnosis, via a hotline call.

In order to carry out an accurate diagnosis, it is essential that a natural person (distributor, installer or end customer) is in the vicinity of the damaged Product when the Supplier's after-sales service is contacted. This person must provide the Supplier's technicians with the Product's serial number.

It will not be necessary for this person to have any particular technical knowledge, but his or her physical, sensory or other abilities must not be an obstacle to using the Product. This person will be asked to give some visible information about the Product, in order to define an immediate diagnosis, and implement the appropriate solution.

Following the diagnosis, the Purchaser shall confirm to the Supplier, by e-mail or by registered letter with acknowledgement of receipt, the existence of the defects or non conformity within a maximum of three (3) working days from their discovery.

Failure to comply with all these provisions will release the Supplier from all obligations towards the Purchaser.

7-2. After-sales service

7.2.1. All after-sales service requests must be the subject of a hotline call (diagnosis) under the conditions described in section 7.1.4. Each reported malfunction will be recorded on a predefined form with an after-sales service number, in order to monitor the quality of the after-sales service network. The maximum decision-making time for the after-sales service is forty-eight (48) hours from the call. On the basis of the diagnosis made, the Supplier will replace or have repaired, by a person appointed by it, the Products or parts under warranty deemed defective or will decide (at its sole discretion) an on-site intervention or an expertise of the Product in its workshops, as described in sections 7.2.3 and 7.2.4.

7.2.2. Sending of spare parts: In the case of a Product under warranty, the diagnosis may determine the sending of a spare part. An after-sales service file containing the diagnosis will be created and the part sent, depending on available stocks, by courier within forty-eight (48) hours for shipments to France and within seventy-two (72) hours for shipments to Europe.

In the case of a Product out of warranty, the sending of a spare part is conditional upon the issue of a quotation by the Supplier, with return of the quotation accepted by the Purchaser. The quotation is valid for one month, after which it cannot be used to send spare parts.

7.2.3 On-site intervention: In the event of a proven failure in the refrigeration circuit, the Supplier's after-sales service will request the assistance of an approved technical station (see special after-sales service and warranty conditions).

7.2.4 Workshop intervention :

- Preparing the Product: It is the installer's responsibility to dismantle the Product from the installation he has carried out, to secure and protect the Product on a pallet and to make it available to the carrier.
- Transport: it will be organized by the Supplier. The carrier will be responsible for the Product during transport, any damage before loading or after unloading will not be under its responsibility. If a Product is damaged, it is the responsibility of the person receiving the Product to follow the procedure for notifying the carrier and the Supplier of any reservations, as set out in section 6-2 of these GTC.
- Repair: expertise and repair will be organized and carried out in the Supplier's workshop, depending on activity. Each repaired Product will be tested before sending to ensure that it is in perfect working order.
- Reinstallation of the Product: the installer alone is responsible for the correct installation and the restarting of the Product after unloading. Unless special arrangements have been made, the returned Product will be made available to the installer.

7.2.5. Product exchange : In certain specific cases, the Supplier reserves the right to carry out an exchange of the damaged Product, in which case the methods of transport, machine preparation and reinstallation of the new Product are identical to those in the previous paragraph.

Any exchange of a Product irrevocably requires first of all a return to the workshop in order to ascertain the seriousness of the damage requiring an exchange before sending the new Product or an equivalent Product, taking into account the essential physical and technical characteristics as well as the final destination or function of the Product.

7-3. Liability

The Supplier shall not be held liable in the event of non-performance or improper performance of the Agreement due to the Purchaser or to force majeure. The Supplier may not be held liable to the Purchaser, for any reason whatsoever, for any indirect loss whatsoever, and in particular for any loss of data, commercial loss, loss of sales or profits, loss of customers, loss of opportunity, damage to image, etc.

SECTION 8 - Intellectual property

8-1. The Purchaser acknowledges that the intellectual property rights pertaining to the Products - i.e. logos, models, designs, promotional creations, software, processes, know-how, developments, inventions, technologies, and trademarks, which are brought to its knowledge and/or made available to it (in whole or in part) by the Supplier for the performance of the Order as well as for the subsequent resale of the Products and/or for their promotion remain the exclusive property of the Supplier and/or third parties from whom it is licensed.

8-2. It is specified that the Supplier has developed a connected application which enables certain Products to be supervised and maintained remotely (hereinafter referred to as the "Software"). The end customer may have access to the Software following the purchase of a Product from the Purchaser.

Under no circumstances may the Purchaser copy, reproduce or publish the Supplier's Software. It may not alter, modify, translate, change or adapt the Product and/or the Software in whole or in part for the creation of derivative works. It may not decompile, disassemble, attempt to derive source codes or source files or reverse engineer the Software or any part thereof.

8-3. The Supplier grants the Purchaser the right to use the trademark(s) for the sole purpose of performing the contractual obligations between the Supplier and the Purchaser, i.e., the presentation, promotion and marketing of the Products under the GTC hereof and of the special terms and conditions, and its affixing on promotional materials related to the Products. The Supplier gives no other guarantee on the trademarks other than the material existence of said trademarks in France.

SECTION 9 - Resale of Products

The Products may only be kept and sold under their original brand names and in their original packaging, without the right to modify in any way the composition or presentation of the Products. When reselling Products, the Purchaser undertakes to respect and ensure respect for their presentation, and to inform consumers of the conditions and precautions for use indicated and/or prescribed by the Supplier. When reselling the Products, the Purchaser undertakes to take into account all sales instructions provided by the Supplier and will use any recommendations and communications provided by the Supplier for the purpose of presenting the Products.

SECTION 10 - Force majeure

The Parties shall not be held liable if the non-performance or delay in performance of any of their obligations as described herein is due to force majeure, as defined in the art. 1218 of the French Civil Code.

The Party witnessing the event must immediately inform the other Party of its inability to perform its obligation and justify it to the latter. The suspension of obligations shall under no circumstances be a cause of liability for non-performance of the obligation in question, nor lead to the payment of damages or late penalties.

The performance of the obligation is suspended for the duration of the force majeure if it is temporary and does not exceed 2 months. Consequently, as soon as the cause of the suspension of their mutual obligations has disappeared, the Parties will make every effort to resume normal performance of their contractual obligations as soon as possible. To this end, the Party prevented will notify the other of the resumption of its obligation by registered letter with acknowledgement of receipt. If the impediment is definitive or exceeds a duration of two (2) months, the present agreement will be purely and simply terminated in accordance with the terms defined in article 11.3.

During this suspension, the parties agree that the costs incurred by the situation will be borne by the prevented party.

SECTION 11 - Termination of the contract

11-1. Resolution for unforeseen circumstances

Notwithstanding section 15.4 below, termination due to the impossibility of performing an obligation that has become excessively onerous may only occur ten (10) days after receipt of a formal notice sent by registered letter with acknowledgement of receipt.

11-2. Termination for non-performance of a sufficiently serious obligation

The injured Party may, notwithstanding section 15.4 below, in the event of a sufficiently serious breach of any of the obligations incumbent upon the other Party, notify the defaulting Party by registered letter with acknowledgement of receipt, of the termination for failure of the present agreement, ten (10) days after receipt of a formal notice to perform which has remained unsuccessful, in application of the provisions of art.1224 of the French Civil Code.

11-3. Termination due to force majeure

Notwithstanding section 15.4 below, automatic termination for reasons force majeure cases may only take place ten (10) days after receipt of a formal notice sent by registered letter with acknowledgement of receipt.

11-4. Termination for failure of a party to perform its obligations

In the event of non-compliance by either party with the following obligations: non-payment on the due date of Products ordered by the Purchaser, non-delivery of Products, non-compliance with the warranty conditions referred to in the sections of this GTC, the agreement may be terminated at the discretion of the injured party. It is expressly understood that such termination for failure by a party to meet its obligations will take place automatically ten (10) days after receipt of a formal notice to perform, which has remained wholly or partly without effect. The formal notice may be delivered by registered letter with acknowledgement of receipt.

11-5. Common provisions to all termination cases

The services exchanged between the Parties since the conclusion of the agreement and until its termination having found their utility as and when the mutual performance thereof, they will not give rise to restitution for the period prior to the last service not having received its counterpart. In any event, the injured party may apply to the courts for damages.

SECTION 12 - Personal data

12-1. Both Parties comply with the provisions of the General Data Protection Regulation No. 2016/679 (the "GDPR"). The Supplier collects and processes the Purchaser's personal data for its own use, for the management of this Agreement. The Supplier is required to collect the following categories of personal data from the Purchaser: identification data of the Purchaser's personnel (surname, first name, email address, telephone number (hereinafter the "Personal Data")).

12-2. As part of the supply of the Software, the Supplier acts as the Purchaser's Personal Data processor. The provisions of the Data Protection Agreement are applicable to the processing carried out within this framework, which can be found in the Appendix to the GTC.

SECTION 13 - Independence of the parties

The Parties declare that they do not intend to form a company or any other legal entity and that they are independent. Each Party shall be solely responsible for the cost of charges and expenses relating to its duties and responsibilities under the Agreement, and shall be personally liable for all taxes, assessments, fees and duties for which it is liable. Neither Party has the authority to act as agent or employee of the other, or under any other status, and neither Party has any mandate, express or implied, to bind the other in any manner whatsoever.

SECTION 14 - Confidentiality

Projects, documents and information of any kind transmitted by either Party may not be used by the other Party for any purpose other than the performance of the Order. The Parties shall refrain, before, during or after the performance of the Order, from disclosing, communicating to any third party or using directly or indirectly, in whole or in part, any information and data of any nature whatsoever relating to the Order, the Products and/or the conditions of collaboration, contained therein or communicated by either Party or by any third party.

SECTION 15 - Miscellaneous provisions

If one or more of the provisions herein are held to be invalid or declared as such in application of a law, a regulation or following a final decision of a competent court, the other provisions will retain all their force and scope. In the event of difficulties of interpretation resulting from a contradiction between any of the headings appearing at the top of the sections and any of the sections, the headings will be declared non-existent. The Parties mutually agree that the fact that one of the Parties tolerates a situation does not have the effect of granting acquired rights to the other Party. Furthermore, such tolerance may not be interpreted as a waiver of the right to assert the rights in question. Neither Party may make any commitment in the name and/or on behalf of the other. In addition, each of the Parties remains solely responsible for its own acts, allegations, commitments, services and personnel.

SECTION 16 - Disputes

ALL DISPUTES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENTS RESULTING THEREFROM, WHETHER CONCERNING THEIR VALIDITY, INTERPRETATION, PERFORMANCE, RESOLUTION, CONSEQUENCES, SHALL BE SUBMITTED TO THE COMPETENT COURTS OF THE CITY OF LYON.

SECTION 17 - Applicable law - Language of the Agreement

By express agreement between the parties, these GTC and the purchase and sale transactions arising therefrom are governed by French law. They are written in French. Should they be translated into one or more languages, only the French text will be deemed authentic in the event of a dispute.