



General terms and conditions

CLADX

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ARTICLE 1. | DEFINITIONS

In these general terms and conditions, the following terms, always indicated with a capital letter, are used in the following meaning:

1. CladX: the user of these general terms and conditions, CladX B.V., located at Houtzagerijstraat 22, 5451 HZ, Mill, Netherlands, registered with the Chamber of Commerce under number 93892950.
2. Customer: any legal entity, or natural person acting in the exercise of a profession or business, with whom CladX has entered into or intends to enter into an Agreement.
3. Parties: CladX and the Customer collectively.
4. Agreement: any agreement between the Parties under which CladX has committed to the Customer to deliver Products.
5. Products: the goods to be delivered by CladX to the Customer in the context of the Agreement, including, but not limited to, CladX cladding, accessories, and fastening materials.
6. Written: in addition to traditional written communication, communication by email or any other means of communication that can be considered equivalent in view of the state of the art and prevailing societal perceptions.

ARTICLE 2. | GENERAL PROVISIONS

1. These general terms and conditions apply to every offer made by CladX and to every Agreement that is concluded.
2. The applicability of any purchasing or other general terms and conditions of the Customer is explicitly rejected.
3. Only expressly and in writing can deviation be made from the provisions in these general terms and conditions. If and insofar as what the Parties have expressly agreed in writing deviates from the provisions in these general terms and conditions, what the Parties have expressly agreed in writing shall apply.
4. Annulment or invalidity of one or more provisions of these general terms and conditions or the Agreement as such does not affect the validity of the other provisions. In such a case, the Parties are obliged to enter into discussions with each other in order to make a replacement agreement with regard to the affected provision. The purpose and intent of the original provision will be taken into account as much as possible.

ARTICLE 3. | OFFER AND CONCLUSION OF AGREEMENTS

1. Unless expressly agreed otherwise in writing within the framework of any framework agreement between Parties, any offer from CladX is non-binding, even if a deadline for acceptance is mentioned. A non-binding offer from CladX can be revoked immediately, or at least as soon as possible, after its acceptance by the Customer. The data in illustrations, drawings, and specifications of dimensions and weight, which are part of the offer, should only be considered as approximate values, to the extent that they are not explicitly designated as binding. It is the Customer's responsibility to verify the aforementioned data.
2. The Customer cannot derive any rights from an offer from CladX that contains an obvious mistake or error.
3. Each Agreement is concluded, without prejudice to the provisions of clause 1, by offer and acceptance. An oral offer must be accepted immediately, failing which it shall lapse. If the Customer's acceptance deviates from CladX's offer, the Agreement is not concluded in accordance with this deviating acceptance, unless CladX indicates otherwise. In case of an order from the Customer without a specific offer from CladX preceding it, the Agreement is only deemed to be concluded when CladX confirms the order to the Customer by email.
4. If CladX provides the Customer with a written confirmation of an Agreement concluded orally, it is deemed that this confirmation accurately and fully reflects the Agreement, unless the Customer has objected in writing to CladX within three days after receiving the confirmation.

5. An offer from CladX is a one-time offer and does not automatically apply to any subsequent agreements between Parties. However, unless stated otherwise, these general terms and conditions also apply to subsequent agreements without CladX being obliged to provide these general terms and conditions to the Customer again.
6. If the Customer enters into the Agreement on behalf of another natural or legal person, they declare, by entering into the Agreement, to be authorized to do so. The Customer is jointly and severally liable with this (legal) person for the fulfilment of all obligations arising from that Agreement.

ARTICLE 4. | CANCELLATION OF THE AGREEMENT BY THE CUSTOMER

In the event of cancellation of the Agreement by the Customer, the Customer remains liable for the full price agreed.

ARTICLE 5. | DELIVERY OF THE PRODUCTS

1. Unless expressly agreed otherwise in writing, delivery of the Products takes place Ex Works, (De Amert 216, 5462 GH, Veghel, The Netherlands), in accordance with the most recent version of the International Commercial Terms (Incoterms® rule Ex Works (EXW)).
2. Regardless of the provisions of the previous paragraph, Parties may agree that CladX will take care of the transport. In that case, the risk of storage, loading, transport, and unloading also rests with the Customer.
3. In case of exceeding the agreed delivery term, the Customer, without prejudice to the provisions regarding default of CladX in article 6, is never entitled to refuse to accept the Products and/or to pay the purchase price and any transport costs.
4. If the Products could not be delivered due to a circumstance attributable to the Customer, CladX, without prejudice to the provisions in article 10, is entitled to store the Products at the expense and risk of the Customer, without prejudice to the obligation of the Customer to pay the amount due to CladX under the Agreement. The additional costs incurred due to non-acceptance, including, in particular, the costs of extra transport and storage and labour costs, will be charged to the Customer according to the usual rates used by CladX.
5. CladX is and remains the owner of all documents, provided models, samples or examples, and these may not be delivered or made available to third parties for inspection, or be reproduced or imitated without the written permission of CladX. Upon request from CladX, such documents, provided models, samples or examples must be returned to CladX in good condition within fourteen days. Colour nuances and/or shading between the samples/examples and the Products cannot be grounds for complaint or a valid claim under warranty.

ARTICLE 6. | DELIVERY TIMES

1. Any delivery deadlines to which CladX has committed itself towards the Customer are indicative, non-binding deadlines. CladX's default shall not occur until after the Customer has put CladX in default in writing, specifying a reasonable deadline for performance in such notice, and CladX is still in default with delivery after the expiration of the latter deadline.
2. CladX's default entitles the Customer to dissolve the Agreement for the part to which the default relates, but never entitles to additional compensation.

ARTICLE 7. | COMPLAINTS

1. The Customer is obliged to inspect the Products for transport damage or other damage upon delivery. Complaints regarding visible or otherwise recognizable defects at the time of delivery of the Products must be submitted in writing and substantiated to CladX within five days of delivery.
2. Complaints regarding defects that were not visible or otherwise not recognizable at the time of delivery, must be submitted in writing and substantiated to CladX within five days of discovery, or within five days of when the defect should reasonably have been discovered by the Customer.
3. If the Customer does not complain in a timely manner or in accordance with the provisions of the previous paragraphs, CladX is not obligated in any way as a result of such a complaint from the Customer.
4. Even if the Customer complains in a timely manner and in accordance with the provisions of the previous paragraphs, the obligation of the Customer to make timely payment remains.

ARTICLE 8. | WARRANTY

1. The CladX cladding system - boards mounted on the supplied rails and clips - comes with a 10-YEAR warranty. CladX guarantees that, on the date of delivery to the original buyer, the CladX cladding system is suitable for the application intended. This warranty applies, from the delivery date stated on the invoice, exclusively and solely to the original buyer of the CladX cladding system and cannot be transferred or assigned.
2. In the event of a valid complaint, the damaged parts of the CladX cladding system, as far as no longer suitable for the intended application, will be: (i) supplied at no cost and Ex Works up to one (1) year after the delivery date, or (ii) for a fee paid by the Customer based on the following formula from one year to ten (10) years after the delivery date Ex Works: $([\text{number of full years after the delivery date}] * 0.1) * \text{current selling price}$. Repair or replacement by third parties will not be reimbursed by CladX. After replacement, the warranty period as referred to in this article will not start again.
3. Warranty is void if a defect in the delivered Product is the result of a cause external to CladX or another circumstance not attributable to CladX. This includes, but is not limited to, defects resulting from external damage, natural wear and tear, incorrect or improper handling, application contrary to the processing instructions provided by CladX or otherwise made known, and the making of changes to the Products, including repairs not carried out with prior Written consent from CladX.
4. Colour nuances or variations in and/or between all surfaces (both the visible side and the side and/or back side) are an integral part of the product and cannot be grounds for complaint or a valid claim under warranty. This also applies to insufficient mixing of the CladX strips within a facade surface.
5. Releasing granules, discoloration (including due to rust, petrified wood or pyrite), the presence of core fibres on the surface, or air bubbles in the material cannot be grounds for complaint or a valid claim under warranty.
6. The Products come with a technical description that includes tolerances (included in 'CladX Design and Installation'). The technical description is an integral part of the Agreement and can also be downloaded through the website of CladX. Deviations within the tolerances in the technical description are not grounds for complaints or a valid claim under warranty.
7. For a valid claim under warranty, the Customer must complain in Writing and with motivation to CladX within the period referred to in articles 7.1 and 7.2.
8. Products cannot be returned without prior Written permission from CladX.

ARTICLE 9. | FORCE MAJEUR

1. CladX is not obliged to fulfil any obligation under the Agreement if and as long as they are hindered by circumstances that cannot be attributed to them under the law, a legal act or generally accepted views in society (force majeure). Force majeure shall, in addition to what is understood in legislation and case law, mean all external causes over which CladX has no control and which make the (further) execution of the Agreement impossible or seriously difficult, including epidemics, pandemics, extreme weather conditions, natural disasters, fire, measures by any government, transport restrictions, war or threat of war, violent or armed actions, disruptions in communication connections or in CladX's or third parties' equipment or software.
2. If the force majeure situation permanently makes the performance of the Agreement impossible or lasts or will last longer than three months, the Parties are entitled to terminate the Agreement entirely or partially, with immediate effect.
3. If CladX have already partially fulfilled their delivery obligations at the occurrence of the force majeure situation, or can only partially fulfil their delivery obligations, they are entitled to claim compensation for the part of the Agreement already delivered, or the part still to be delivered.
4. Damage as a result of force majeure shall, notwithstanding the application of the previous paragraph, never be eligible for compensation.

ARTICLE 10. | SUSPENSION AND DISSOLUTION

1. If circumstances reasonably justify it, CladX is authorized to suspend the execution of the Agreement or to terminate the Agreement in whole or in part with immediate effect, if the Customer fails to fulfil their obligations under the Agreement on time, completely, or at all, or if circumstances that came to CladX's attention after the conclusion of the Agreement give good reason to fear that the Customer will not fulfil their obligations. If the fulfilment of the Customer's obligations in respect of which they are in default or threaten to be in default is not permanently impossible, the right to terminate only arises after the Customer has been given written notice of default by CladX, in which notice a reasonable period is stated within which the Customer can still fulfil their obligations, and the fulfilment has still not occurred after the expiry of that period.
2. If the Customer is in bankruptcy, has applied for (provisional) suspension of payments, any attachment has been made on their goods or in cases where the Customer otherwise cannot freely dispose of their assets, CladX is entitled to terminate the Agreement in whole or in part with immediate effect.
3. Furthermore, CladX is entitled to terminate the Agreement in whole or in part if circumstances arise that are of such a nature that performance of the Agreement is impossible or its unaltered maintenance cannot reasonably be expected from them.
4. The Customer shall never be entitled to any form of compensation in connection with CladX's exercise of the suspension and/or termination right under this article.
5. To the extent that the grounds for suspension or termination of the Agreement can be attributed to the Customer, the Customer is obliged to compensate the damage suffered by CladX as a result.
6. If CladX terminates the Agreement on the basis of this article, all claims against the Customer become immediately due and payable.

ARTICLE 11. | PRICES, TRANSPORT COSTS AND PAYMENTS

1. In case of transport organized by CladX, the transport costs will be charged to the Customer according to the usual rates applied by CladX.
2. All amounts mentioned by CladX and owed by the Customer to CladX are exclusive of VAT, unless explicitly stated otherwise in writing.
3. In case of price increases in cost-determining factors between the conclusion of the Agreement and the delivery of the Products, CladX is entitled to pass on these price increases to the Customer. Cost determining factors include, but are not limited to, raw materials and components for the products, salaries, social security contributions, and government measures or changes in applicable laws or regulations.
4. Unless expressly agreed otherwise in writing, CladX is entitled to demand full or partial prepayment from the Customer. In case the Customer fails to make the prepayment, CladX will not proceed with the delivery of the Products. This does not affect CladX's right to enforce the Agreement.
5. Payments must be made by bank transfer within the term specified on the invoice by CladX. CladX has a standard payment term of 14 days from the invoice date, but may deviate from this in individual cases.
6. CladX is entitled to provide the invoice to the Customer exclusively by email.
7. If timely payment is not made, the Customer will automatically be in default. From the day the Customer is in default, an interest rate of 2% per month will be applicable on the outstanding amount, with a part of a month being counted as a full month.
8. All reasonable costs incurred to obtain the amounts owed by the Customer to CladX, such as legal, extrajudicial, and enforcement costs, will be borne by the Customer.

ARTICLE 12. | LIABILITY

1. CladX shall never be liable for any damages caused by inaccuracies or incompleteness in the data provided by the Customer. Furthermore, CladX shall never be liable for damages caused by any other failure to fulfil the obligations of the Customer arising from the law or the Agreement, or any other circumstance that cannot be attributed to CladX.
2. CladX is not responsible and liable for the application of the Products by the Customer, end user or any other third party. Failure to obtain a permit for the application of the Products cannot be considered a failure of CladX or lead to liability of CladX.
3. CladX shall never be liable for consequential damages, including but not limited to lost profits, incurred losses, and damages resulting from business interruption.

4. If, despite the provisions of these general terms and conditions, CladX is liable for any damages, CladX has the right to rectify the damage at all times. The Customer must give CladX the opportunity to do so, failing which any liability of CladX in this regard shall lapse.
5. The liability of CladX is limited to the repair or replacement of the Products to which the liability of CladX relates, only if and to the extent that CladX is required to do so under warranty as referred to in article 8. If repair or replacement is not possible, the liability of CladX is limited to the invoice value of the Agreement, or that portion of the Agreement to which the liability of CladX relates. In no event shall the liability of CladX exceed the amount actually paid out in the relevant case under CladX's liability insurance, plus any policy excess applicable under that insurance.
6. Notwithstanding the limitation periods referred to in article 7, the limitation period for all claims against CladX is one year.
7. The liability limitations in these general terms and conditions do not apply if the damage was caused by intent or gross negligence of CladX or its executive staff.

ARTICLE 13. | RESERVATION OF TITLE

1. All Products shall remain the property of CladX until the Customer has fully fulfilled all payment obligations under the Agreement.
2. Unless reasonably deemed permissible in the course of their normal business operations, the Customer is prohibited from selling, pledging, or otherwise encumbering the Products subject to the retention of title.
3. The Customer is obligated to keep the Products delivered under retention of title with due care and to store them as identifiable property of CladX.
4. If third parties seize the Products subject to CladX's retention of title, or wish to establish or enforce rights on them, the Customer is obliged to inform CladX of this as soon as possible.
5. In case of a breach of the provisions of this article or resale by the Customer in the course of its normal business operations, the amount owed by the Customer to CladX becomes immediately due and payable.
6. The Customer unconditionally authorizes CladX or designated third parties to enter all places where the Products subject to the retention of title are located, so that CladX can take them back into its possession. The Customer must provide CladX with all information upon first request to enable it to exercise its ownership rights, under penalty of a daily fine of €500 for each day the Customer is in default without CladX having to give notice of default. All reasonable costs related to the exercise of CladX's ownership rights shall be borne by the Customer.
7. If, after the Products have been delivered to the Customer by CladX and the Customer has fulfilled its obligations, the retention of title reverts to these Products if the Customer fails to fulfil their obligations under a later concluded Agreement.

ARTICLE 14. | INTELLECTUAL AND INDUSTRIAL PROPERTY

1. CladX reserves all intellectual and industrial property rights to the Products and their design, as well as to the name CladX, the sketches, drawings, and other goods provided or otherwise disclosed by CladX to the Customer that are protected by intellectual or industrial property rights. CladX has the exclusive right to produce CladX products and their processing, as well as to disclose, implement, and reproduce sketches, drawings, and the like. The Customer is granted only the right to use them, subject to the rights arising from legislation on intellectual and industrial property. This right of use is not transferable.
2. CladX grants the Customer acting as a reseller the right to use the brand names and logos of CladX, but only to the extent and for as long as it can reasonably be considered permissible in the context of the Customer's resale activities, and subject to all possible instructions from CladX regarding their use. Prior written consent from CladX is required for the use of the brand names of CladX and its logos, other than as intended in the previous sentence.
3. The reseller is obliged to use the brand names and signs used by CladX in connection with the resale of the Products. The Customer is not permitted to remove or modify the brand names and/or signs of the Products or their packaging, or to apply their own brand names and/or signs on the Products or their packaging.
4. A breach attributable to the Customer of the provisions in the preceding paragraphs gives CladX the right to demand immediate rectification of the infringement, as well as compensation to be determined based on the nature and extent of the infringement.

ARTICLE 15. | FINAL PROVISIONS

1. CladX is, at all times, entitled to transfer its rights and obligations under the Agreement to a third party.
2. CladX is entitled to amend these general terms and conditions. In such a case, the Customer will be notified, with the amended general terms and conditions being provided to them and becoming applicable thereafter.
3. Only Dutch law applies to every Agreement and all legal relationships arising therefrom between the Parties.
4. The Parties will not resort to the courts until they have made every effort to settle the dispute amicably.
5. Only the competent court within the jurisdiction of the Oost-Brabant (Netherlands) district court is designated to hear any judicial disputes between the Parties in the first instance, without prejudice to CladX's right to designate another court competent under the law.
6. If these general terms and conditions are available in multiple languages, the Dutch version shall always govern the interpretation of the clauses included herein.