

## GENERAL TERMS AND CONDITIONS

TQC Sheen B.V., Molenbaan 19, 2908 LL Capelle aan den IJssel, the Netherlands

### 1 General - Scope of application, Terms of delivery

- 1.1 These General Terms and Conditions apply to all of our offers, deliveries and services and also apply to all future supplies and services, including in the event they are not agreed expressly again.
- 1.2 Inconsistent conditions or conditions that deviate from our General Terms and Conditions applied by the customer are rejected and not accepted by us, unless we have agreed to their applicability expressly and in writing. Our General Terms and Conditions therefore apply if we carry out the delivery to the customer without reservation, despite the fact that we are aware of inconsistent or deviating conditions applied by the customer.
- 1.3 All agreements that are concluded between us and the customer with a view to the performance of this contract are laid down in writing in this agreement. The provisions of the agreement always prevail in case of inconsistencies between the agreement concluded between us and the customer and these General Terms and Conditions.
- 1.4 The DAP Incoterms 2010 terms of delivery apply additionally.

### 2 Offer - Content of the agreement - Side agreements

- 2.1 Our offers are without obligation and non-binding in the sense that an agreement is not formed until the moment we confirm the order in writing. The invoice also applies as order confirmation if the delivery is carried out immediately without prior confirmation.
- 2.2 In case of doubt, our written order confirmation is decisive for the content of the agreement.
- 2.3 Technical changes are reserved, in particular minor improvements and differences in industry-standard dimensions, weight and size, in so far as they are reasonable for the customer and in so far as these changes are reasonable in view of the mutual interests.
- 2.4 The customer commits that it will check this order confirmation for correctness immediately after receiving it, in particular whether it corresponds to the order.

### 3 Prices

- 3.1 Our prices are net, ex works Capella aan den IJssel in the Netherlands, excluding packaging and excluding the statutory VAT rate.
- 3.2 Any additional costs, in particular insurance costs, export and import duties, and any costs related to permits, banking costs etc. are for the customer's account. In the event delivery takes place more than 4 months after conclusion of the agreement we will have the right to increase the agreed price within reason, if the prices of material costs, market prices or other costs that have an impact on our goods increase in the period between the conclusion of the contract and the delivery. The customer only has the right to cancel the order and withdraw from the agreement if the price increase exceeds 10%. The above does not apply to agreed fixed prices.
- 3.3 If there is no deviating agreement, we will have the right in the event we install or assemble the devices delivered on site to charge the costs of these additional services to the customer and set them off on a proportionate basis.

### 4 Delivery term

- 4.1 We determine delivery terms by approximation. These terms do not constitute strict deadlines. The customer is not entitled to compensation or dissolution in any event in case the delivery term is exceeded. The delivery terms are included in our order confirmations and presume that the customer complies with all contractual obligations and implements the necessary measures, in particular arrangements for documents, permits, releases and payments on account, in so far as these have been agreed. It is the case in this connection that we have complied with the delivery term, if the articles to be delivered were handed over to the forwarder before the end of the term or if we have informed the customer that the product is ready for dispatch.
- 4.2 In case of force majeure or in case of other unforeseeable, exception circumstances beyond our control, such as strikes, lockouts, problems involving the purchase of materials, import and export bans, including in the event these occur at subcontractors, the delivery term will be extended by the duration of these exceptional circumstances. Our obligation to deliver lapses in the event delivery becomes impossible due to these circumstances or if delivery can no longer be performed in a reasonable manner. If the delivery term is exceeded, or if our obligation to deliver ends, the customer will not be able to derive any entitlement to compensation therefrom.
- 4.3 If the order is not dispatched or delivered within the delivery term indicated by us, the customer will be obliged to grant us a grace period of at least 6 weeks.
- 4.4 In the event dispatch is postponed at the request of the customer, the resulting storage costs will be charged to the customer as from one month after the product could have been dispatched. In case of postponed delivery, we have the right to charge 0.5% of the invoice amount per month instead of the storage costs actually incurred.
- 4.5 We have the right to make partial deliveries in so far as this does not have an unreasonable effect for the customer.
- 4.6 In case of a delay in the performance or if the customer has informed us expressly when the delivery term was laid down that it will refuse to take delivery after the term has ended and the delivery term is exceeded, the customer will have the right to cancel the order. The customer is not entitled to compensation if this is the case.
- 4.7 In the event the customer finds itself in financial problems, in particular in case of objections when collecting cheques or bills of exchange or if a procedure for the issue of a sworn statement has been requested, or in the event a change has occurred - or may occur - in the customer's ownership structure we will have the right to deliver the goods only in part against immediate payment, even if other methods of payment have been agreed.

### 5 Transfer of risk

- 5.1 Delivery takes place ex works in accordance with DAP Incoterms 2010. The risk passes to the customer as soon as the shipment is made available to the customer. If it has been agreed that we will carry out the transport, we will dispatch the goods in the manner we consider to be the best. The risk of loading, unloading, storage and transport lies with the customer, which may take out insurance to cover this risk.
- 5.2 In so far as agreed, we have the right to deliver the goods at a different location in which connection the risk to the goods during transport passes to the buyer; the customer bears the resulting additional costs of packaging, loading, unloading, transport and insurance.

### 6 Taking receipt - Delay

- 6.1 In the event the customer fails to take receipt of the goods within 14 days after its statement that it is ready to take receipt of them, we may offer it an additional period of 14 days in writing, including therein the statement that we have the right to decide not to deliver and dissolve the agreement after this period has ended.
- 6.2 We have the right to dissolve the agreement and/or claim compensation in connection with a failure to perform if the customer does not take receipt of the goods. Without prejudice to further claims, we have the right to claim compensation of 25% of the order value plus VAT, without proof of damage, unless the customer demonstrates that we sustained a considerably lower amount in damage. If this is the case, the customer will only be obliged to pay the damage actually sustained plus VAT.
- 6.3 We are not obliged to demand that the customer takes receipt of the goods, nor are we obliged to offer an additional period for taking receipt if it becomes clear that the customer refuses to take delivery emphatically or definitively, or it is demonstrably unable to pay the purchase price after the additional period for taking receipt.

### 7 Guarantee and other rights

- 7.1 We are never liable for ensuring that the goods are suitable for the customer's intended purpose and that they can be used or processed subject to the conditions that apply at the customer or its customers. It is the customer's responsibility to test or determine this before use or processing.
- 7.2 The suitability, classification and function of our goods are determined exclusively by the performance specifications in the order confirmation, even if these deviate from the order. If this is the case, the customer will have the right to point out any deviations from its order and reach agreement with us in this respect within 2 weeks after receipt of our order confirmation. If the customer does not complain concerning the specifications in our order confirmation, these will be considered to have been accepted.
- 7.3 The customer is obliged to report defects in writing immediately, but no later than one week after receipt of the goods. Defects that cannot be discovered even in case of meticulous inspection must be reported in writing immediately after they are discovered.  
The delivery papers that were handed over together with the goods must be sent to us in case of complaints. In the event the customer does not report defects to us or does so too late or if the goods have been modified after the defect was discovered or could have been discovered, the customer will consequently lose all guarantee rights and will no longer be able to invoke a defect in the performance.
- 7.4 Defects in a part of the goods delivered do not give the customer the right to refuse the entire delivery, unless the customer is able to prove that it is also unable to use the part without defects as a result of the defect that was identified.
- 7.5 Our guarantee does not apply in case of defects as a result of natural wear, in case of improper intervention by the customer or third parties, and in case of chemical or other unusual influences.
- 7.6 In case of delivery of computer software, we guarantee that these were developed according to the latest state of the art, were inspected with due care and are suitable in principle for the procedures described in the product documentation. Our guarantee does not mean that the software is entirely suitable for compliance with the customer's requirements and

objectives or is compatible with other software selected by the customer.

- 7.7 In so far as we are of the opinion that there are defective goods, we have the right, at our discretion and in compliance with our obligations, to resolve the defect or deliver a new product free from defects or to decide not to perform and dissolve all or part of the agreement and credit the customer a proportionate part of the invoice. Such without the customer being able to enforce any right to compensation on any basis whatsoever. When resolving defects, we are obliged to bear all costs that have to be incurred in this connection, in particular transport, travel, labour and material costs, in so far as these are not increased because the goods have been transferred to a place other than the original location. In the event a new product free from defects is delivered, the customer will be obliged to return the defective goods to us in advance, in which connection the necessary costs have to be borne by us. If the defect persists thereafter, the customer will have the right, at its own discretion, to demand a reduction of the purchase price, or to dissolve the agreement, without the customer also being able to enforce any right to compensation on any basis whatsoever.
- 7.8 The prescription period for claims in connection with defects is 12 months, calculated from the moment of risk transfer.
- 7.9 The customer can only invoke the guarantee after the customer has complied with all of its obligations towards us.
- 7.10 The customer cannot transfer the rights under this article.

#### 8 Patent infringement

If the goods are manufactured in a manner prescribed specifically by the customer or are delivered as special versions, it will assume responsibility for ensuring that the relevant version does not infringe the rights of third parties, in particular patents, utility models and other intellectual property rights. The customer indemnifies us against all possible claims (for compensation) on the part of third parties, damage and/or costs (including the full costs of conducting a defence) that may result from such an infringement.

#### 9 Limitation of liability

- 9.1 With the exception of any obligations arising from article 7, we are never obliged to pay compensation to the purchaser or other parties, with the exception of intent or gross negligence (to be demonstrated by all lawful means by the party that holds us liable). We are never liable in particular for (any) losses due to delays, consequential losses or direct trading losses, directly or indirectly, by any name whatsoever - including lost profit and loss owing to stoppage - sustained by the purchaser, its subordinates and the third parties set to work by it, arising from full or partial (renewed) delivery of goods, delayed or improper delivery, or the fact that delivery does not take place or by the goods themselves. Neither are we liable for losses resulting from the provision of defective cooperation, information or materials by the purchaser or losses that result directly or indirectly from infringement of intellectual property rights held by third parties as a result of the use of information provided by or on behalf of the purchaser.
- 9.2 In the event we are unable to invoke the provisions of article 9.1 for any reason whatsoever, our liability on any legal basis whatsoever is limited at all times to the loss for which we are insured on the basis of insurance taken out by us or on our behalf of us, but never exceeds the amount that is paid in the relevant case under this insurance. If we are unable to invoke the abovementioned limitation for any reason whatsoever, the obligation to compensate losses is limited to at most 15% of the overall sum of the agreement, excluding VAT.
- 9.3 If our liability for losses is excluded and limited, such will also apply to the personal liability for losses on the part of our employees, representatives and deputy agents.
- 9.4 In the event the customer exports our goods to areas outside the Netherlands, we do not accept liability if our goods infringe the rights of third parties. The customer indemnifies us against all possible claims on the part of third parties, damage and/or costs (including the full costs of conducting a defence) that may result from such export of our goods, which we have not delivered expressly for export.

#### 10 Rights of use in respect of the sale of computer programmes

- 10.1 The computer software sold by us and supplied under licence and related documentation are protected by copyright.
- 10.2 The sale and supply of computer software means that we transfer to the customer a simple, non-exclusive, non-licensable and non-transferable right to use this software for its own purposes within its own business. The customer has the right to use all or part of the programme on a data processing device. Simultaneous use on multiple devices for data processing is allowed.
- 10.3 The customer does not have the right to modify or disassemble the software. References to the holder of the rights to the software and to the documentation may not be removed. In the event the software is resold, the right of use and the obligations will be transferred to the buyer.

#### 11 Invoices - Payments

- 11.1 We draw up invoices as soon as the ordered goods are ready for dispatch or are ready to be picked up. Delays in the dispatch or picking up of the goods or in sending the invoices, which is not attributable to us, do not have an impact on the due date of the invoice.
- 11.2 Our invoices are effective immediately and must be paid within 30 days after the invoice date, without discount, suspension or setoff. If this does not happen, the customer will be in default by operation of law, without it being necessary to send a notice of default for this purpose. If the customer fails to pay, we will have the right to charge interest amounting to 8 percent on top of the basic interest of the European Central Bank. We reserve the right to claim higher losses due to delays if applicable. In the event the customer fails to comply with any obligation or fails to do so on time, it will owe us extrajudicial costs, if and as soon as we are obliged to charge a third party with handling the case. The costs will be calculated in accordance with the Dutch Extrajudicial Collection Costs (Standards) Act, subject to a minimum of €250.00, without prejudice to our right to claim the actual costs if these prove to be higher and provided it does not concern a consumer purchase.
- 11.3 If such has been agreed expressly, the customer will have the right to deduct a 2% discount from the overall amount in case the invoice is paid in full within 10 days after the invoice date. This does not apply to customer services provided and invoiced to the customer.
- 11.4 In the event circumstances become known after conclusion of the agreement, which may call the customer's creditworthiness into question, we may demand advance payment or a security deposit, which is to be decided by us. The same applies in the event the customer fails to comply with a payment obligation towards us on the due date. If one of these circumstances occurs, our claims against the customer, including those with respect to other goods, become immediately due and payable.
- 11.5 In so far as we accept cheques or bills of exchange, such always occurs on the basis of payment. We do not guarantee timely submission or possible protests in such cases. The costs of discounts, taxes and collection are for the customer's account. It must reimburse these contributions immediately upon request.
- 11.6 Payments made in cash, via bank transfers or cheques, which occurred in respect of an account indicated by us and accepted by the customer, are only considered to be payment if the amount is collected in the relevant account and the debt to us has been paid as a result thereof. The agreed retention of title (without prejudice to other agreements) as well as other reservation rights continue to exist at least until we have received the full amount.
- 11.7 The customer can only claim rights of setoff if its counterclaims have been established (irrevocably) at law or if they are recognised by us. Rights of retention held by the customer based on a different contractual relationship are excluded.

#### 12 Retention of title

- 12.1 The security, which we will be able to enforce upon request and at our discretion, as referred to below is guaranteed until all claims have been paid, including all balance claims in respect of the current account to which we are entitled on a legal basis now or in the future.
- 12.2 The goods delivered by us remain our property until all claims arising from the specific order have been paid. We retain title until all of our claims with a legal basis as a result of the business relationship with the purchaser have been paid.
- 12.3 In the event our (joint) ownership ends as a result of an obligation, it is hereby agreed in advance that the (joint) ownership of the customer of the jointly-owned object passes to us pro rata (invoice value). The customer retains (joint) ownership on our behalf for no consideration.
- 12.4 The customer has the right to transfer, treat or process the goods that are owned or jointly owned by us or combine them with goods from a different origin only within the context of the customary business operations. Transfer is only allowed in case of sale and exclusively subject to the condition that the customer's claims, which arise from the sale transaction as referred to above are passed on to us. The starting points of the purchase contract and the customer's obligations are not influenced by such a request or the return of the goods.
- 12.5 In the event the customer commits breach of contract, in particular in case of a failure to pay, we will have the right to demand the goods back following a prior reminder and the customer will be obliged to return these and cooperate fully in this connection. The customer will grant free access at all times to its sites and/or buildings for the purpose of inspecting the goods and/or to exercise the aforementioned rights.
- 12.6 The customer has the right to process and resell the goods delivered in the proper manner within the context of the customary business transactions. The customer does not have the right to sell or encumber the good subject to retention of ownership, such as on the basis of pledge or mortgage. Any claims against the current account, which arise from the resale or for other legal reasons (insurance, unlawful act) with respect to the goods reserved (including all balance claims) are hereby transferred to us in advance by the customer, for safety's sake, irrespective of whether the goods reserved are transferred to one or more customers.
- 12.7 The customer has the irrevocable right to collect for our account and in its own name the claims transferred to us. Transfers and pledges are not allowed. The direct debit mandate can only be withdrawn if the customer fails to comply properly with its payment obligations or if we become aware of circumstances that threaten our rights. The customer's right to claim back lapses in particular, without further delay, if it ceases its payments, is ordered to disclose its financial situation, insolvency proceedings with respect to its assets are initiated, or if it becomes involved in legal proceedings.
- 12.8 The customer is obliged at our request to inform debtors regarding the transferred claims, provide us insight into the debtors and the amounts owed and to hand over to us the documents we require to enforce the transferred claims.
- 12.9 In case of attachments or another form of intervention by third parties with respect to the goods reserved, the customer must point out our retention of title and inform us in writing

immediately so that the retention of title can be invoked. At the same time, the customer is obliged to inform third parties of the existence of the retention of title. In so far as the third party is unable to reimburse the legal and extrajudicial costs involved in an appeal, the customer remains liable for the damage and costs incurred by us. In case of breach of contract on the part of the customer, in particular in case of a failure to pay or in the event other circumstances become known as a result of which it appears that our rights are threatened, we will have the right to take back the goods purchased invoking the retention of title while dissolving the agreement.

12.10 If we take back goods that were delivered by us without dispatch costs and without a purchase obligation on the part of the buyer, we will have the right to demand an amount from the customer of at least 25% of the invoice value of the goods by way of compensation for non-performance of the agreement.

12.11 The retention of title is agreed conditionally in so far as that after full payment of all our claims that arise from the business relationship ownership of the goods reserved passes to the customer without reservation and all claims awarded accrue to it.

### **13 No power of disposition**

The customer's rights and obligations arising from the agreement concluded with us cannot be transferred, unless we have granted written approval to do so.

### **14. Service and material samples**

14.1 We process the material samples of our customers to the best of our abilities. However, we must fully assume the information provided to us by the customer. This applies in particular to the completeness of the information. We are only liable for malicious intent and gross negligence.

14.2 Material samples must be provided by the customer free of charge. Material samples that have been sent in and in respect of which it has not been requested expressly upon receipt or within 4 weeks after handover that they be sent back may be destroyed.

14.3 Material samples are tested free of charge at our laboratory if such has been agreed. We have the right following consultation to charge a reasonable fee per working hour to be determined by us if there is no such agreement. The party that provides the material samples bears all risks related to the transport, storage and management of the material samples. This applies in particular to damage caused by the material sample itself, or by the connection thereof to any contact materials (toxic, corrosive, explosive materials etc.) without the sender having indicated these dangers in advance in writing. The same applies to the loss of the material sample.

### **15 Severability clause**

In the event a provision of these General Terms and Conditions are not effective or incomplete, such will not have an impact on the validity of the other provisions.

### **16 Place of performance, competent court, applicable law**

16.1 The place of performance and payment is Capella aan den IJssel.

16.2 The court with exclusive jurisdiction concerning all disputes is the court of Rotterdam, the Netherlands, with the exception of agreements concluded through the intermediary by TQC Sheen GmbH, Germany, in respect of which the court of Hilden, Germany, is competent as agreed.

16.3. All offers made and agreements concluded by us, as well as the obligations and/or agreements arising therefrom, are governed by Dutch law. The applicability of the Vienna Sales Convention is excluded.