

**Note : these general terms and conditions are a translation of the Dutch terms and conditions. The Dutch text of these general terms and conditions is decisive for the interpretation.**

## **Article 1. General**

1. These conditions apply to every offer, tender and agreement between Quopt IT Services B.V., hereinafter referred to as "User", and a Other Party on which User has declared these conditions applicable, insofar as these parties have not expressly agreed otherwise in writing .
2. These conditions also apply to agreements, for which the execution requires services of third parties.
3. These general conditions are also applicable for the employees of User and its management.
4. The applicability of any purchase or other conditions of the Other Party is explicitly rejected.
5. If one or more provisions of these terms and conditions are declared wholly or partially invalid or void, the remainder of these terms and conditions will remain in full effect. User and the Other Party will enter into negotiations to develop new rules to replace the invalid provisions where as much as possible the purpose and intent of the original provisions are observed.
6. If uncertainty exists regarding the interpretation of any provision of these terms and conditions, then the explanation must be found 'in the spirit' of these provisions.
7. If there is a conflict between parties that do not occur in these terms and conditions, then this situation should be assessed in the spirit of these terms and conditions.
8. If User does not require strict compliance with these conditions, this does not mean that its provisions do not apply, or that User in any degree would lose the right to otherwise strict compliance with the provisions of these terms and conditions.

## **Article 2 Offers and Deals**

1. All bids and offers of User are non-committal. A tender offer is void if the product to which the offer or the offer relates, is no longer available.
2. User can not be held to bids or offers if the Other Party can reasonably understand that the bids or offers, or any part thereof, are an obvious mistake or error.
3. All bids or offers that mention prices are excluding VAT and other government levies, and excluding costs that are required to execute this agreement, including costs for travel and living, shipping and handling, unless otherwise indicated.
4. If the offer made by User deviates from these general terms and conditions then these general terms and conditions will remain in full effect and will prevail over the offer.
5. A compound quotation shall not oblige User to execute part of the assignment against a corresponding part of the price. Offers and tenders shall not apply automatically to future orders.

## **Article 3 Duration of the Contract, delivery, implementation and modification agreement**

1. The agreement between the User and the Other is for an indefinite period, unless the nature of the agreement dictates otherwise or if the parties expressly agree otherwise in writing.
2. When for the completion of work or for the supply of certain articles a period is agreed or specified, then this is never a deadline. When a term is exceeded, the Other Party will have to declare the User default in writing. Other Party must offer a reasonable period to implement the agreement.
3. If User requires information from the Other Party for the execution of the agreement, then the agreement will start as soon as the Other Party has supplied said information accurately and completely to the User.
4. Delivery is ex works from User. The Other Party is obliged to take delivery at the time that User has made the delivery available. If the other party refuses or fails to provide information or instructions necessary for the delivery, User is entitled to store the goods at the expense and risk of the Other Party.
5. User has the right to have certain work done by third parties.
6. If the agreement is implemented in several phases then the User has the right to implement and thus invoice parts of the agreement separately.
7. If the agreement is implemented in phases then User has the right to stop implementation of the next phase until the Other Party accepted the results of the preceding stage in writing.
8. If during the execution of the agreement it shows that for a proper implementation it is necessary to amend or supplement the agreement, then parties will adapt the agreement. If the nature, scope or content of the agreement, whether or not at request or indication of the Other Party, the competent authorities et cetera, is amended and the agreement would be qualitatively and / or quantitatively changed, this may also have implications for what was originally agreed. The initially agreed amount can be increased or decreased. User shall as much as possible make a (new) quote. By amending the agreement the initial period of implementation may change. The other party accepts the possibility of amending the agreement, including the change in price and time of execution.
9. If the agreement is amended, including supplements, User is entitled to start implementation only after it has been agreed by the authorized person within User and the Other Party, and if both parties have agreed to the specified price and other conditions, including time of execution. Failure or delay of implementation of the amended agreement does not breach User and is no reason for the Other Party to terminate the agreement. Without being in default, the User can refuse a request to amend the agreement, if for example the qualitative and / or quantitative terms of the work change.
10. If the other party is in default for the proper fulfillment of its obligations to User, then the party will be liable for all damages (including direct and indirect costs) incurred for the User.
11. If User and Other Party have agreed a fixed price, then User is nevertheless at all times entitled to increase the price without the Other Party being entitled to terminate the contract for that reason, if the increase in price is resulting from a power or duty under any law or regulation, or its cause is in

an increase in the price of raw materials, wages and on other grounds which could not be reasonably foreseeable at the time of the agreement.

12. If the price other than as a result of an amendment to the agreement exceeds 10% within three months after the conclusion of the contract, then Other Party (that appeals to Title 5 Section 3 of Book 6 BW) is entitled to end the agreement by written notice, unless User is still willing to execute the agreement on the basis of the originally agreed price, or if the price increase results from a an obligation under law or if it is stipulated that the episode is longer than three months after the purchase.

#### **Article 4 Suspension, dissolution and termination of the agreement**

1. User is entitled to suspend or terminate the fulfillment of the obligations in the agreement if:

- The Other Party does not fulfill its obligations in the agreement fully or in a timely manner;
- After the conclusion of the agreement the User learns of circumstances giving good ground to fear that the other party will not fulfill its obligations;
- The Other Party at the conclusion of the agreement is requested to provide security for the fulfillment of his obligations under the agreement and this security is not provided or insufficient;
- If delays on the part of the Other Party make it undesirable for the User to execute the agreement at the originally agreed conditions, then User is entitled to terminate the agreement.

2. Furthermore, the User is entitled to terminate the agreement if circumstances arise of such a nature that fulfillment of the contract is impossible or if other circumstances arise of such a nature that the unaltered execution of the agreement can not reasonably be demanded of User .

3. If the agreement is dissolved, the User's claims against the other party are immediately due and payable. If User suspends fulfillment of his obligations, he shall retain his rights under the law and the agreement.

4. If User suspends or terminates the agreement, he is in no way liable for damages and costs it incurred in any way.

5. If the termination or suspension of the agreement is caused by the Other Party, User is entitled to compensation for damages, including the direct and indirect costs.

6. If the Other Party fails to comply with its obligations in this agreement, and this failure justifies termination, User is entitled to terminate the agreement immediately without any obligation to pay any damages or compensation to the Other Party, while the Other Party will be liable for damages or compensation.

7. If the agreement is terminated by User, User will in consultation with the Other Party arrange for transfer of work to third parties. Unless the termination of the agreement is accountable to the Other Party. If the transfer of the work incurs additional costs for User, they will be charged to the Other Party. The Other Party shall pay such costs within the period specified, unless User indicates otherwise.

8. In case of liquidation, (application for) suspension of payments or bankruptcy of the Other Party the User is free to terminate the agreement with immediate effect without any obligation to pay any damages or compensation. The user's claims against the Other Party is in that case immediately due and payable.

9. If the Other Party placed an order and cancels (wholly or partially) the order, the order or ready made things can be charged to the Other Party.

#### Article 5 Force Majeure

1. User is not obliged to perform any obligation to the other party if he is hindered due to a circumstance that is not due to negligence, or which User cannot be held accountable for under law, a legal act or generally accepted circumstances.

2. Force majeure is in these terms and conditions, in addition to the provisions of the law and jurisprudence, all external causes, foreseen or unforeseen, which user can not influence but which prevents user to fulfill its obligations . Strikes in the company of User or third parties are included. User also has the right to invoke force majeure if the circumstance rendering (further) fulfillment of the contract occurs after the user should have fulfilled his obligation.

3. User may, during the period of force majeure suspend the obligations under the agreement. If this period lasts longer than two months, either party is entitled to terminate the agreement without any obligation to pay damages to the other party.

4. Insofar user at the time of the occurrence of force majeure has (partially) fulfilled its obligations under the agreement User is entitled to separately invoice the already delivered part of the agreement, if this part consist of value to the Other Party. The Other Party is obliged to pay this invoice as if it were a separate agreement.

#### Article 6 Payment and collection costs

1. Payment must be made within 14 days after invoice date, in the currency of the invoice, unless otherwise specified by the user. User is entitled to periodic billing.

2. If the other party defaults in the timely payment of an invoice, then the Party is legally in default. The Other Party shall owe an interest of 3% per month, unless the statutory interest is higher, in which case the statutory interest will be used. The interest on the amount due shall be calculated from the time that the other party is in default until the moment of payment of the full amount owed.

3. User has the right to stretch payments of the Other Party in the first place to reduce the costs, subsequently to reduce the interest still due and finally to reduce the principal and accrued interest.

4. User can, without being in default, refuse an offer for payment, if the Other Party assigns a different order for the allocation of the payments. User can refuse complete repayment of the principal amount, if this payment does not include accrued interest and collection costs.

5. The Other Party is never entitled to set off the amount due to User.

6. Objections to the amount of an invoice does not suspend the obligation to pay the invoice. The Other Party that does not appeal to section 6.5.3 (Articles 231 to 247 of Book 6 BW) and is not entitled to suspend the payment of an invoice for any other reason.

7. If the Other Party is in default or omission in the (timely) fulfillment of his obligations, all reasonable costs incurred in obtaining payment out of court are for the Other Party. The extrajudicial costs are calculated on the basis of what the Dutch collection practice is currently the method 'Voorwerk II' report. If, however, higher costs for collection have been reasonably necessary, the actual costs are recoverable. Any judicial and execution costs will also be recovered from the Other Party. The Other Party is also required to pay interest on the collection costs.

#### **Article 7 Ownership**

1. All delivered goods and services remain the property of the User until all obligations under the agreement with the Other Party are properly fulfilled by the Other Party.

2. By User supplied materials and services may not be resold and may never be used as payment. The Other Party is not entitled to pledge or otherwise encumber supplied materials and services.

3. The Other Party is always to do what is reasonably expected of him to secure the property of the User.

4. If third parties seize goods delivered under retention of title or rights, then the Other Party is obliged to immediately notify the User.

5. The Other Party agrees to insure delivered materials and services and keep them insured against fire, explosion, water damage and theft until full payment is made.

6. In case User as indicated in this Article wants to exercise property rights, the Other Party will give immediate, unconditional and irrevocable permission to User and will provide User, or a third party at request of the User, access to all those places where the property of User is located to take back the property of the User.

#### **Article 8 guarantees, research and advertising, period**

1. The to be delivered materials and services shall meet the usual reasonable requirements and standards that at the time of delivery are in use in the Netherlands. The warranty referred to in this Article shall apply to matters that are intended for use within the Netherlands. When outside the Netherlands, the other party is to verify whether the use is suitable there and meet the conditions to which they are made. User can set other guarantees and other conditions in respect of the goods to be supplied or work to be performed.

2. The warranty as mentioned in paragraph 1 of this Article shall be guaranteed for a period of 14 days after delivery, unless the nature of the provided implies otherwise or the parties have agreed otherwise. If the User provided a guarantee on materials produced by a third party, then the guarantee is limited to the warranty as provided by the manufacturer of the materials, unless otherwise stated.

3. Any form of warranty is void if a defect is caused by or resulting from improper or inappropriate use or use after the expiration date, improper storage or maintenance by the other party and / or third parties when, without written permission from User, the Other Party or parties have made changes or have tried to make changes or if they were processed or modified other than as prescribed. The Other Party is not entitled to warranty if the defect is caused by or arising from circumstances outside the User's control, including weather conditions (such as but not limited to, extreme temperatures or rainfall) et cetera.

4. The other party is obliged to investigate the received materials immediately at the moment of delivery. The Other Party is to examine that the quality and / or quantity of the goods delivered correspond to what was agreed and that these meet the requirements the parties have agreed. Any visible defects should be reported to the User within seven days after delivery. Any defects that are not visible immediately, but in any event within fourteen days after discovery, have to be reported in writing to the User. The report should contain a detailed description of the defect so that User is able to respond adequately. The Other Party must give the User the opportunity to investigate the cause of the complaint.

5. In case of a complaint the Other Party is required to fulfill payment. The Other Party remains in that case also obliged to accept and pay for the otherwise ordered materials.

6. If a defect is reported beyond the 14 day period, then the Other Party is not entitled to repair, replacement or compensation.

7. If it is determined that the delivered materials or services do not meet the agreed requirements then the User will, after reception of the faulty materials, replace or repay the materials or services, at the discretion of the User.

8. If a complaint is unfounded, the costs incurred, including research costs, on the part of User, are for the account of the Other Party.

9. After the warranty period, all costs for repair or replacement, including administration, shipping costs and drive, will be charged to the Other Party.

10. Notwithstanding the statutory limitation periods, the limitation period for all claims and defenses against the User and by the User in the implementation of the agreement involved third parties, is one year.

#### **Article 9 Liability**

1. If User is liable, this liability is limited to what is in this agreement.

2. User is not liable for damages of whatever nature, because of assumptions made by the User made on incorrect and / or incomplete data provided by the Other Party.

3. If User is liable for any damage, then the liability shall be limited to twice the invoice value of the order, or to that part of the order to which the liability relates.

4. User's liability is always limited to the amount paid by his insurer, as appropriate.

5. User is solely liable for direct damage.

6. Direct damage is only the reasonable costs incurred to establish the cause and extent of damage, where the establishment relates to damage in the sense of these terms, any reasonable costs incurred for the poor performance of the User Agreement to answer, as far as these can be attributed to user and reasonable costs incurred to prevent or limit damage, if the other party demonstrates that these expenses resulted in mitigation of direct damage as referred to in these terms and conditions.

7. User is never liable for indirect damage, including consequential, lost profits, lost savings and damage due to business stagnation.

8. In this article are the limitations of liability do not apply if the damage is due to intent or gross negligence of User or his subordinates.

#### **Article 10 Transfer of Risk**

1. The risk of loss, damage or devaluation is transferred to the Other Party at the moment articles and services pass into the control of the Other Party.

#### **Article 11 Safeguard**

1. The Other Party shall safeguard the User for any claims by third parties who in connection with the execution of the agreement suffer damages and whose cause is accountable to other than the User.

2. If User is addressed by third parties, then the Other Party is required to assist User immediately both outside and in law and to do for whatever in that case can be expected by the User of the Other Party. Should the Other Party fail to take adequate measures, then User, without notice, is entitled himself to do so. All costs and damages on the part of User and third parties, are for the account and risk of the Other Party.

#### **Article 12 Intellectual property**

1. User reserves the rights and powers for which he is entitled under the Copyright and other intellectual property laws and regulations. User has the right to use increased knowledge gained by the execution of the agreement at his side for other purposes, provided that no strictly confidential information of the Other Party is brought to the knowledge of third parties.

#### **Article 13 Applicable law and disputes**

1. To all legal relationships to which User is a party, only Dutch law applies even if a contract is wholly or partly abroad or if the legal relationship with the party concerned is domiciled. The applicability of the Vienna Sales Convention is excluded.

2. The judge in the place of User shall have exclusive jurisdiction over disputes, unless the law requires otherwise. User shall nevertheless be entitled to submit the dispute to the competent court according to law.

3. Parties will appeal to the courts after they turn to the utmost to solve a dispute by mutual agreement to settle.

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