

TVILIGHT

STANDARD TERMS & CONDITIONS

TVILIGHT PROJECTS B.V.

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GENERAL TERMS & CONDITIONS

Effective Date: 01.11.2019

Article 1 – Definitions

1.1 ‘Agreement’ means the formal written contract between Contractor and Customer for the provision, distribution, sale, or license of Products and Services.

1.2 ‘Contractor’ means the limited liability company Twilight Projects B.V. headquartered in the Netherlands with Dutch Chamber of Commerce number 2805 2105.

1.3 ‘Customer’ means a natural or legal person/ entity who enters into a contract with the Contractor.

1.4 ‘Delivery’ means the actual delivery of Products and Services to the Customer or completion of services.

1.5 ‘Quotation’ means any quotation, proposal, or offer in whatever form provided by Contractor to Customer.

1.6 ‘Terms’ means these general terms and conditions of Contractor.

1.7 ‘Products’ means the objects to be supplied under the Agreement, including software and documentation.

1.8 ‘Services’ means the services to be supplied under the Agreement.

1.9 ‘In writing’ means any communication by document signed by both parties, or by letter, fax, electronic mail, and other agreed means.

Article 2 – Applicability

2.1 These Terms apply to all Quotations and Agreements between Contractor and Customer. Some Products and Services, such as software, may be subject to additional terms and conditions and/or end user license conditions (EULA’s).

2.2 These Terms also apply to agreements where the Contractor uses third parties.

2.3 Any modifications of or deviations from these Terms must be agreed upon in writing.

2.4 By contracting based on these Terms, the Customer agrees to their applicability to future Agreements with the Contractor.

2.5 The applicability of any general purchase or other conditions of Customer is explicitly rejected.

2.6 In case of conflict between the conditions of the Agreement and these Terms, the conditions of the Agreement will prevail.

Article 3 – Quotation and Agreements

3.1 Unless otherwise agreed, all Quotations are non-binding and valid for 60 days from the date of the offer. Contractor may amend or revoke any Quotation at any time prior to receipt of acceptance by Customer. The Agreement is concluded upon acceptance of the Quotation.

3.2 Quotations are based on data, drawings, sizes, and measurements provided by Customer. Customer is solely responsible for the accuracy of any order, including compatibility and interoperability

with other products not authorized by Contractor. Any unused material is non-returnable and non-refundable.

3.3 Customer may use the Quotation only to determine whether to award Contractor the commission. If no Agreement is entered, Contractor remains the sole right holder regarding the content of the Quotation, except for any information from Customer.

3.4 Contractor is not liable if Customer can reasonably understand that the Quotation is the result of an obvious mistake or error.

3.5 Contractor is not obliged to execute part of the assignment against a corresponding part of the given Quotation and this shall not apply automatically to future orders and/or quotes.

Article 4 – Prices, Payments, and Collections

4.1 All prices and rates quoted by Contractor are exclusive of VAT, other government taxes, levies, and EX WORKS.

4.2 Payment must be made within 30 days of the invoice date, in a manner specified by Contractor in the currency of the invoice, unless otherwise specified. Contractor is entitled to periodic billing.

4.3 Contractor is entitled at any time to require Customer to make an advance or interim payment.

4.4 Objections to the amount of an invoice do not suspend the payment obligation. Setting off the invoice against amounts owed by Contractor to Customer is not allowed.

4.5 Price increases exceeding 2% will be passed on to Customer. Contractor will inform Customer within a reasonable time. If an agreement on the price increase cannot be reached, Contractor reserves the right to cancel the order and stop the work.

4.6 If Customer exceeds the payment period, Customer is in default without further notice. Customer shall pay the statutory interest applicable on commercial transactions on the outstanding amount and the reasonable costs incurred by Contractor to obtain payment.

Article 5 – Delivery of Products, Performance of Services

5.1 If the Agreement consists of the provision of Services, Contractor undertakes to exercise due skill, care, and diligence.

5.2 Contractor reserves the right to engage third parties for the performance of Services and the supply of Products.

5.3 All (delivery) periods and (delivery) dates agreed upon or specified by Contractor are established to the best of Contractor's knowledge. Delivery dates are target dates, non-binding, and indicative. Contractor shall make every reasonable effort to meet these dates.

5.4 Exceeding a (delivery) period or (delivery) date does not mean Contractor is in default.

5.5 In the event of delays or impediments caused by Customer, Contractor may charge additional costs.

5.6 In phased implementation, Contractor can suspend subsequent phases until previous phases are accepted and approved in writing by Customer.

5.7 Changes or modifications to the Agreement are binding only if agreed in writing and confirmed by Contractor.

5.8 Customer acknowledges that certain features or functionalities of Products and Services may rely on third-party service providers, including supply of energy, data storage, connectivity and communication services. Contractor will not be responsible or liable for issues arising from these third-party services.

Article 6 – Ownership, Transfer of Title, and Risk

6.1 All Products delivered by Contractor remain the property of Contractor until Customer has fulfilled all payment obligations.

6.2 Until legal title has passed to Customer, Customer shall not assimilate, transfer, pledge, or grant rights or title to any third party, except in the normal course of business. Customer must inform Contractor immediately if third parties intend to seize goods delivered under retention of title.

6.3 Risk of loss or damage to the Products passes to Customer upon delivery in accordance with the applicable Incoterm. Unless otherwise agreed, deliveries are made “Ex Works” according to Incoterms (latest version).

6.4 Customer must report any shortages, defects, or damages in writing within 48 hours upon receipt of the Products. If not reported, deliveries are deemed complete and in good condition, and Customer will have no right to revoke acceptance.

6.5 If paid-for Products are not collected, Contractor will retain the goods for up to two (2) months at Customer’s risk. Storage costs will be charged after this period.

Article 7 – Intellectual Property Rights

7.1 Unless otherwise agreed, Contractor retains full intellectual property rights to its Products.

7.2 Subject to Customer’s fulfillment of all provisions under the Agreement and these Terms, Contractor grants a non-exclusive, non-transferable license to use the Products and Services, including software, for the term of the Agreement.

7.3 Without Contractor’s prior written consent, Customer may not:

- a. Copy, distribute, or reverse engineer Products or parts, software, or documentation, either wholly or partially;
- b. Use the name and/or logo of the Contractor;
- c. Remove the name and/or logo of the Contractor from the products.

7.4 Customer must take necessary precautions to avoid infringement of Contractor’s intellectual property rights.

Article 8 – Confidentiality

8.1 Contractor will keep confidential any information provided by Customer and indicated as confidential, except for information that (i) is or becomes public domain without fault of Contractor, (ii) was lawfully obtained by Contractor from a third party on a non-confidential basis, or (iii) is required to be disclosed by law or court order.

8.2 Customer will keep confidential any technical, commercial, and financial information, including any Quotation, and will not disclose such information to third parties or use it for purposes other than the Agreement or Quotation.

Article 9 – Force Majeure

9.1 Contractor will not be liable for any breach resulting from a Force Majeure event. Performance will be suspended for the period of the Force Majeure event. “Force Majeure” includes acts of God, natural catastrophes, strikes, war, terrorism, civil unrest, industry-wide shortages, cyber-attacks, hacking or

non-performance by suppliers or third parties on which services rely (including connectivity and communication services). If the Force Majeure event extends for three (3) consecutive months, Contractor may cancel all or part of the Agreement without liability.

Article 10 – Use of Products, Warranties, and Indemnification

10.1 Customer shall use the Products only for their intended purposes and maintain them in good condition.

10.2 Contractor warrants that Products will meet the requirements in the Quotation and be free from defects for 24 months upon delivery, except for normal wear and tear.

10.3 Complaints must be reported within 15 days of discovery. Reports must contain a detailed description of the complaint. Valid claims require immediate written notification to Contractor within the warranty period, including details such as installation characteristics, environmental circumstances, and product information.

10.4 If a Product is defective and the defect is attributable to Contractor, Contractor's sole liability and Customer's exclusive remedy is repair or replacement. Repairs or replacements do not extend the warranty period. Customer bears the costs of removal and replacement.

10.5 Warranties lapse if (1) Customer or a third party makes changes/repairs to the Products, (2) Products are not used according to instructions, (3) Products are used for unintended purposes, or (4) Products are used in unexpected ways.

10.6 If the warranty concerns third-party goods/services, it is limited to the third party's warranty.

10.7 Contractor is not liable for performance failures due to Customer's negligence, power supply issues, or Force Majeure.

10.8 Tvilight Warranty terms are applicable.

10.9 Customer shall indemnify Contractor against losses, costs, and expenses arising from Customer's breach of the Agreement or these Terms and third-party claims related to Customer's unauthorized use or modification of Products.

10.10 Contractor may require Customer's assistance if addressed by third parties. If Customer fails to assist, Contractor may take action and charge costs to Customer.

10.11 Contractor is not liable for performance failures due to Customer's non-compliance with the Agreement, power fluctuations, connectivity issues, third party services (including connectivity and communication service or Force Majeure).

Article 11 – Limitation of Liability

11.1 Contractor is not liable for damages if (1) Customer or a third party makes changes/repairs to the Product, (2) Products are not used according to instructions, (3) Products are used for unintended purposes, or (4) Products are used unexpectedly.

11.2 Contractor is liable only for direct damages, defined as damage to Products and reasonable costs to establish the cause and extent of damage.

11.3 If Contractor is liable, liability is limited to 50% of the net invoice value of the order related to the liability.

11.4 Contractor is not liable for indirect damages, including loss of profit, lost savings, and business interruption.

Article 12 – Suspension and Termination of the Agreement

12.1 In the event of Customer’s breach, Contractor may suspend any performance under the Agreement.

12.2 Contractor may terminate the Agreement by written notice if (a) Customer faces bankruptcy, suspension of payments, dissolution, or liquidation, or (b) Customer defaults on the Terms and does not remedy the default.

12.3 Customer may cancel the agreement if Contractor exceeds an agreed new delivery time without justifiable grounds, provided Customer notified Contractor in writing of refusal if the new delivery term is exceeded.

12.4 Termination will not result in Customer compensation. Contractor will refund any payments related to the canceled agreement.

Article 13 – Miscellaneous

13.1 If any provision of these Terms becomes invalid, the remainder will apply. Contractor and Customer will negotiate new rules to replace invalid provisions with ones that match the original intent.

Article 14 – Applicable Law and Disputes

14.1 All legal relationships to which these Terms apply will be governed exclusively by Dutch law.

14.2 The United Nations Convention for the International Sales of Goods (CISG) does not apply.

14.3 Parties will first attempt to settle disputes amicably before resorting to courts.

14.4 Disputes will be resolved by the competent court in the district of Contractor’s place of business.