

# GENERAL TERMS AND CONDITIONS CB

## I. GENERAL

### Article 1. Definitions

In these General Terms and Conditions the following definitions shall apply:

- a) CB: the private company Cortana BV and/or members of this group and a company affiliated to CB and its employees.
- b) The Counterparty: any individual or legal entity who has entered into an Agreement with CB and/or has purchased products and/or services from CB.
- c) The Agreement: an Agreement entered into by CB with a Counterparty and/or the purchase of products and/or services from CB by a Counterparty.
- d) Quote: every offer from CB to a third party.

### Art. 2 Applicability

1. Current General Terms and Conditions apply to all Quotes and Agreements.
2. These General Terms and Conditions apply to all offers and acceptances on the part of CB. Insofar CB refers to other conditions in its offer or acceptance, the applicability thereof is expressly rejected.
3. All Quotes from CB are valid for no longer than one month, unless stated otherwise in the offer.
4. CB only has a best efforts obligation regarding the implementation of the Agreement.

## II. GOODS

### Art. 3 Quality and description

1. CB pledges to the Counterparty to deliver the goods in the description, quality and quantity as described further in the (possibly modified later) Quote.
2. If CB purchases goods from the Counterparty, the Counterparty pledges to CB to deliver goods that:
  - a) are constructed of sound materials and solid design;

- b) are equal in all respects to any samples or models provided or made available by Counterparty;
  - c) will deliver the performance (capacity, yield, speed, finish, etc.) as described in the Quote.
3. CB does not guarantee that the goods are fit for purpose for which the Counterparty intends to use them, even if this purpose is made known to CB, unless otherwise agreed between the parties.

### Art. 4 Packaging and shipping

1. The goods shall be delivered by CB or sent to the agreed location or locations in the manner specified in the order or subsequently agreed.
2. When CB has made available the packaging and the transport pallets, boxes, crates, containers, etc. or made available through a third party — whether or not with payment of security or deposit, the Counterparty is required (unless it regards one-time packaging) to return the pallets, etc. to the address provided by CB, failing which the Counterparty shall owe CB damages compensation.

### Art. 5 Storage

1. If for whatever reason the Counterparty is unable to take delivery of the goods at the agreed delivery time and these are ready for shipping, CB shall, as its storage capacity allows, store the goods at the request of the Counterparty and at the risk of the Counterparty.
2. The Counterparty is obliged to pay CB the storage costs according to the usual CB rate and, failing that, according to the standard industry rate, from the time the goods are ready for shipping or, if that is a later date, from delivery date agreed in the Agreement.

### Art. 6 Transfer of ownership and risk

1. The ownership of the goods shall transfer to the Counterparty upon delivery except as set out in paragraphs 2 and 4.
2. As long as the Counterparty has not paid the entire amount of the purchase price with any additional costs or provided security therefore, CB retains ownership of the goods. In that case, ownership passes to the

## GENERAL TERMS AND CONDITIONS CB

Counterparty once Counterparty has fulfilled all of its obligations to CB.

3. If there is reasonable doubt on the part of CB regarding the payment capacity of the Counterparty, CB is entitled to postpone delivery of the goods until the Counterparty has provided security for the payment. The Counterparty is liable for damages incurred by CB for the delayed delivery.
4. If CB, at the request of the Counterparty, postpones the shipping in accordance with the provision in Art. 5, the goods shall remain the property of CB, until the goods have been delivered to the Counterparty and delivered to the location or locations referred to in Art. 4 paragraph 2.
5. In all cases where the goods have not yet been delivered by CB due to a circumstance on the part of the Counterparty, the Counterparty bears the risk for the goods. Counterparty must then ensure for the adequate insurance of the goods and risks the goods bring with them. Counterparty indemnifies CB for any damages resulting from the goods in question.

### Art. 7 Delivery

1. Delivery dates are approximate.
2. CB will deliver the goods as much as possible at the time, or immediately after the end of the delivery period, that is determined in the order. If a delivery term has been agreed, it shall commence on the date CB confirmed the order.
3. The delivery period shall be extended by the period during which CB, through force majeure (as set out in Article 10), is unable to meet its obligations.

### Art. 8. Guarantee

1. CB sets itself liable to the Counterparty and to recipients of the Counterparty for damages to or by the goods, incurred during the guarantee period specified in the order, unless the damage is the result of the fact that the Counterparty or its recipient uses the goods in violation of the operating instructions provided or otherwise makes a mistake in the use.
2. The liability of CB is limited to free repair of defective goods or replacement of the goods or a part thereof, at the discretion of CB.

## III. SERVICES

### Art. 10 Work

1. CB carries out, except with contract variations, only the explicitly defined Services in the Agreement.
2. Parties establish that a best efforts obligation rests with CB.
3. CB is authorised to have Services carried out by third parties.

### Art. 11 Counterparty Obligations

1. Counterparty is obliged, well before the implementation of the Service(s), to provide CB all information and items that could be relevant for the implementation of the Service(s).
2. Counterparty shall ensure that all Information and items provided by the Counterparty, or by third parties engaged by it, are correct and proper.
3. If applicable, the Counterparty undertakes to ensure that the working conditions under which CB Personnel, or a third party engaged by it, carry out the Services/agreed work, comply with the working conditions legislation and related laws and regulations.

## IV. Price and Payment

### Art. 12 Price and payment

1. The Counterparty is obliged to pay the agreed price in cash. It is not entitled to deduct from this price any amount relating to a counterclaim placed by it.
2. If the Counterparty does not fulfil its payment obligations on time and fails to comply with a notice period of one week, CB is entitled to terminate the Agreement without judicial intervention. In that case, the Counterparty will be liable to CB for damages suffered, including loss of profit, transport costs and costs of the notice of default.
3. If CB, due to default of the Counterparty, proceeds to extrajudicial measures, the costs thereby incurred shall be borne by the Counterparty. This concerns the costs of the principal amount in accordance with the Decree for compensation for extrajudicial collection

## GENERAL TERMS AND CONDITIONS CB

costs of 1 July 2012. These costs amount to a maximum of €6,775.

4. The Counterparty, that makes use of its authorisation for storage as referred to in Art. 5, remains obliged to pay the purchase price at the time specified in paragraph 2.

### V. OTHER

#### Art. 13 Dissolution

1. Notwithstanding the other provisions in these General Terms and Conditions, the Agreement is dissolved without judicial intervention after a written statement at the time when the Counterparty is declared bankrupt, requests provisional suspension of payment, or a request from CB, or individual, or the court grants the declaration of applicability of a debt repayment scheme, receivership or otherwise disposes of its assets or parts thereof, unless the trustee or administrator recognises the obligations arising from this Agreement as debts of estate.
2. Upon dissolution, mutual claims are payable immediately. The Counterparty is liable for damages suffered by CB, including loss of profits and transport costs.

#### Art. 14 Compensation and controls on resale

1. The Counterparty, which violates any provision of Art. 8, forfeits in favour of CB compensation for each transaction, which falls under any of the prohibitions set out therein. The extent of the damages is set by the parties in advance at €10,000-- per transaction.
2. CB is authorised by an independent accountant to carry out controls of the books of the Counterparty, in order to ensure compliance with the provisions of Art. 8.

#### Art. 15. Force Majeure

1. Force Majeure on the part of CB exists if CB, after closing the Agreement, is hindered in its obligations under this Agreement or the preparation thereof due

to war, threat of war, civil war, terrorism, rioting, harassment, fire, water damage, flooding, strikes, sit-down strike, lockouts, import and export restrictions, government measures, defects in machinery, disruptions in energy supply, everything both in the company of CB and third parties from which CB must use the materials or raw materials in whole or in part, as well as during storage or transport, whether or not in-house, and furthermore caused by anything beyond the control of CB's sphere of risk.

2. If, due to force majeure, the delivery is delayed for more than two months, both CB and the Counterparty shall be entitled to consider the Agreement as terminated. In that case, CB is only entitled to compensation of expenses incurred by it.
3. If force majeure occurs when the Agreement has already been partly executed, the Counterparty has, if by force majeure the remaining delivery is delayed for more than two months, the authority either to retain the previously delivered portion of the goods and to pay the purchase price due therefore, or to consider the Agreement as terminated also for the part already executed, under the obligation to return to CB that which was already delivered at the expense and risk of the Counterparty, if the Counterparty can show that the previously delivered part of the goods can no longer be used for the Counterparty's purpose due to the non-delivery of the remaining goods.

### VI. Final Provisions

#### Art. 16 Applicable law

This Agreement is governed by Dutch law. The Vienna Sales Convention (United Nations Convention on Contracts for the International Sale of Goods, Vienna 11 April 1980, Trb. 1981, 184 and 1986, 61), does not apply to this Agreement.

#### Art. 17 Disputes

1. All disputes that may arise between the parties as a result of their Agreement or further agreements and other transactions in connection with this Agreement such as, but not limited to, unlawful acts, undue

# GENERAL TERMS AND CONDITIONS CB

payments and unfounded enrichment, will be settled by the Court of Maastricht, except to the extent that mandatory rules of jurisdiction would stand in the way of this choice.

2. A dispute shall be deemed to exist when one of the parties declares as such.
3. A dispute regarding a particular legal action should be presented within one year after the claim arose and is made known to the claimant, without prejudice to the earlier revocation or limitation according to law.

## CB standard terms and conditions for purchase of goods

### 1. Interpretation

1.1 In these Conditions the following words shall have the following meanings:

- “Buyer” CB
- “Goods” any goods which the Buyer is to purchase from the Seller (including any of them or any part of them)
- “Seller” the person, firm or company who accepts the Buyer’s Order
- “Contract” the contract between the Buyer and Seller for the sale and purchase of the Goods
- “Order” any purchase order of the Buyer for the Goods, incorporating these terms and conditions

1.2 The headings in these terms and conditions are for convenience only and shall not affect their interpretation.

### 2. Formation and incorporation

2.1 These terms and conditions are the only conditions upon which the Buyer is prepared to deal with the Seller and they shall govern the Contract to the entire exclusion of all other terms or conditions subject to any variation under Condition 2.3. No terms and/or conditions endorsed upon, delivered with or contained in the Seller’s quotation acknowledgement or acceptance of order, specification or similar document will form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and/or conditions. Any reference below or overleaf to such documents will not be deemed to imply

that any terms or conditions endorsed upon, delivered with or referred to in such documents will have effect to the exclusion or amendment of the Contract terms.

2.2 Each Order for Goods by the Company from the Seller shall be deemed to be an offer by the Company to purchase Goods subject to these terms and conditions and no Order shall be accepted until the Seller either expressly by giving notice of acceptance, or implied by fulfilling the Order, in whole or in part, accepts the offer.

2.3 Any variation to the Order or these terms and conditions shall have no effect unless expressly agreed in writing and signed by an authorised signatory of the Buyer.

2.4 Each Order is liable to cancellation by the Buyer if not unconditionally accepted by the Seller within 14 days of the Order.

### 3. Specification

3.1 The quantity, quality and description of the Goods shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable specification supplied or advised by the Buyer to the Seller.

3.2 The Seller shall comply with all applicable standards, regulations and/or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods.

3.3 The Goods shall be marked in accordance with the Buyer’s instructions and any applicable regulations or requirements of the carrier and properly packed and stored so as to reach their destination in an undamaged condition in the ordinary course.

3.4 The Goods shall be fit and sufficient for the purpose for which such Goods are ordinarily used and for any particular purpose made known to the Seller by the Buyer and the Buyer relies on the skill and judgement of the Seller in the supply of the Goods and the execution of the Order.

### 4. Delivery

4.1 The Goods shall be delivered carriage paid to the Buyer’s place of business as named overleaf on the Order, or if some other place of delivery is agreed by the Buyer in

## GENERAL TERMS AND CONDITIONS CB

writing by delivery of the Goods to that place during the Buyer's normal office hours. The Seller shall off-load the Goods of its own risk as directed by the Buyer.

4.2 The Goods shall be delivered on the date or within the period specified in the Order, or if no such period is specified within 28 days of the Order.

4.6 If the Goods are not delivered on the due date then, without prejudice to any other rights which it may have, the Buyer reserves the right to:

- cancel the Contract in whole or in part;
- refuse to accept any subsequent delivery of the Goods which the Seller attempts to make;
- recover from the Seller any expenditure reasonably incurred by the Buyer in obtaining the Goods in substitution from another supplier, and
- claim damages for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Seller's failure to deliver the Goods on the due date.

4.7 The Buyer shall not be deemed to have accepted the Goods until the Buyer has had twenty one days to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

4.9 The Seller shall supply the Buyer on delivery of the Goods with all operating and safety instructions, warning notices clearly displayed and other information as may be necessary for their proper use, maintenance and repair for the Buyer to accept delivery of Goods.

4.13 The Goods shall be properly packed clearly labelled and adequately protected against damage and deterioration in transit.

4.14 The Seller will repair or replace Goods damaged or lost in transit or during off-loading or stacking free of charge provided the Buyer gives written notice to the Seller of the damage or loss within a reasonable time after receipt of a despatch note.

### 5. Risk/Ownership

5.1 Risk in the Goods shall pass to the Buyer upon delivery to the Buyer in accordance with the Contract.

5.2 The ownership of the Goods shall pass to the Buyer upon delivery.

### 6. Price

6.1 The price payable for the Goods shall be that stated in the Order and unless otherwise stated shall be:

- inclusive of all charges including, but not limited to, packaging material, packing, shipping, loading, carriage, insurance and delivery of the Goods to the delivery address and any duties, imposts, levies or taxes other than value added tax; and
- fixed for the duration of the Contract.

6.2 No variation in the price nor extra charges can be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior written consent of the Buyer.

### 7. Payment

7.1 The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods and each invoice shall quote the number of the Order.

7.2 Unless otherwise stated in the Order the Buyer shall pay the price of the Goods within 30 days after receipt of the goods or the last day of the month following the month of receipt by the Buyer of a proper invoice whichever is the later.

### 8. Warranties and indemnity

8.1 The Seller warrants to the Buyer that the Goods:

- will be free from defects in design, material and workmanship;
- will correspond in every respect with any specifications, drawings, samples or descriptions provided by the Buyer; and
- will comply with all statutory requirements and regulations and voluntary codes of conduct relating to the Goods and their sale and supply.

8.2 The Seller shall indemnify and keep indemnified the Buyer in full from and against all direct, indirect or

## GENERAL TERMS AND CONDITIONS CB

consequential liability, loss, damages, injury, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:

- breach of any warranty given by the Seller in relation to the Goods;
- any claim that the Goods infringe, or their use, resale or importation infringes the British or foreign patent, copyright, registered design, design right, trade mark, trade name or other intellectual property right of any other third party except to the extent that the claim arises from any specifications, drawings, samples or descriptions provided by the Buyer;
- any claim made against the Buyer in respect of any liability, loss, damage, cost or expense sustained by the Buyer's employees or agents by any customer or third party to the extent that such liability, loss, damage, cost or expense was caused by, relates to or arises from the Goods; or
- any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods in accordance with the Contract
- any defect in packaging or containers of the Goods or any misleading or inaccurate information or data supplied at any time by the Seller its servants or agents
- any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any defect in the Goods or the negligent or wrongful act or omission of the Seller.

8.3. The Seller shall effect with a reputable insurance company a policy or policies covering all the matters which are the subject of indemnities under these Conditions and shall at the request of the Buyer produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium thereunder.

### 9. Termination

9.1 The Buyer shall have the right at any time by giving notice in writing to the Seller to terminate the Contract forthwith if:

- the Seller commits a breach of any of the terms and conditions of the Contract;

- any distress, execution or other legal process is levied upon any of the assets of the Seller;
- the Seller enters into any arrangement or composition with its creditors, commits any act of bankruptcy or (being a corporation) if an order is made or an effective resolution is passed for its winding up (except for the purpose of amalgamation or reconstruction), or if a petition is presented to court, or if a receiver and manager, receiver, administrative receiver or administrator is appointed in respect of the whole, or any part of, the Seller's undertaking or assets;
- the Seller ceases or threatens to cease to carry on its business;
- the financial position of the Seller deteriorates to such an extent that in the opinion of the Buyer the capability of the Seller adequately to fulfil its obligations under the Contract has been placed in jeopardy;
- the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller;
- the Seller does not pay any money due from it to the Buyer; or
- there is any breach of these Conditions by the Seller.

9.2 The termination of the Contract, however arising, will be without prejudice to the rights and duties of either party accrued prior to termination. The Conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

9.3 No concession or delay on the part of the Buyer shall be construed as a waiver of any rights and remedies.

### 10. Assignment

10.1 This Contract is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or subcontract any of its obligations under the Contract.

10.2 The Buyer may assign the Contract or any part thereof to any person, firm or company.

## GENERAL TERMS AND CONDITIONS CB

### 11. Force majeure

11.1 The Buyer reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of the Goods ordered if it is prevented from or delayed in the carrying on of its business through any circumstances beyond its reasonable control.

11.2 Without prejudice to the generality of condition 11.1 the following shall be included as causes beyond the Buyer's reasonable control:

- governmental actions, war or threat of war, national emergency, riot, civil disturbance, sabotage or requisition;
- Act of God, fire, explosion, flood, epidemic or accident;
- import or export regulations or embargoes;
- labour disputes not including the work-force of the Seller;
- inability to obtain or delay in obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour; or
- a power failure or breakdown of machinery.

### 12. General

12.1 Each right or remedy of the Buyer under the Contract is without prejudice to any other right or remedy of the Buyer whether under the Contract or not.

16.2 Any provision of the Contract which is held by a competent authority to be invalid, void, voidable, unenforceable or unreasonable (in whole or in part) shall to the extent of such invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the other provisions of the Contract and the remainder of such provision shall not be affected.

12.3 Failure of the Buyer to enforce or partially enforce any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

12.4 The formation, construction, performance, validity and all aspects of the Contract are governed by Dutch law and the parties submit to the exclusive jurisdiction of the Dutch courts.