

Twincomm General Terms and Conditions

These General Terms and Conditions were filed with the Chamber of Commerce in Eindhoven, the Netherlands on 1 February 2012 under no. 17074116.

I – General

1 Validity

- 1.1 Twincomm, legally known under the name of `Twin Industrial Communication Systems VoF` and also doing business as `Twincomm` and `TwinTest`, having its corporate seat and its principal place of business in the Olieslager 44 in Veldhoven, the Netherlands, and listed in the Commercial Register of the Brabant Chamber of Commerce under file number 17074116, will perform all its activities and make all its deliveries (goods and services) exclusively in accordance with these General Terms and Conditions, unless explicitly agreed otherwise in writing.
- 1.2 In these General Terms and Conditions, Twincomm, in this case the contracted party or seller, will hereinafter be referred to as the `Contractor`, and the contract-awarding party, the client, or the purchaser, will hereinafter be referred to as the `Client`, and the parties jointly as the `Parties`.
- 1.3 Any standard terms and conditions of the Client do not apply, unless they have been explicitly accepted by Twincomm in writing.
- 1.4 If any provision of these General Terms and Conditions is void or annulled, all other provisions hereof will remain in full force.

2 Offers and Prices

- 2.1 All offers will be subject to contract and will be valid for a period of 14 days after their date.
- 2.2 Any advance information, advance calculations and advance estimates provided by Twincomm will only be for information purposes, unless Twincomm states otherwise in writing. No rights can ever be derived from them.
- 2.3 Offers will be based on information provided by the Client to Twincomm. Any lack of clarity or any inaccuracies in this information will be for the account of the Client. The content of printed matter, websites, (digital) presentations, etcetera will not be binding on Twincomm, unless they are explicitly referred to in the contract.
- 2.4 All prices and rates will be quoted in Euros, exclusive of VAT, unless otherwise agreed, and exclusive of any other levies imposed by the government. Twincomm reserves the right to raise its prices in reasonableness after expiry of Twincomm's offer, or every three months after entering into a contract in connection with increased costs. The prices quoted will be for delivery ex Twincomm, unless agreed otherwise in writing.
- 2.5 As from one year after the Contract is concluded, Twincomm will be entitled to adjust its rates annually by means of a written notice in conformity with the development of the index figure for negotiated wages per hour for business services plus a maximum of 8%, or otherwise if Twincomm is compelled to increase its rates in connection with demonstrable, unforeseen increases of its purchase costs, *inter alia* of energy, hardware and/or software licences.
- 2.6 If the Client does not agree with the adjustment of prices and rates made known by Twincomm as referred to in the previous paragraph, he will be entitled to terminate the contract in writing within seven working days of the notice having been given as referred to in that Article, as from the date mentioned in the notice given by Twincomm on which the adjustment of the prices or rates will be effected, if the adjustment exceeds the percentage indicated in 2.5.

3 Contracts

- 3.1 Any contracts and any amendments and additions thereto will only be effected after their explicit acceptance by Twincomm.
- 3.2 Any contracts with third parties or with a member of Twincomm's staff will not be binding on

- Twincomm if they have not been confirmed in writing. The management board of Twincomm reserves the right to cancel contracts within ten working days.
- 3.3 Upon entering into the contract and before performing or continuing to perform, Twincomm reserves the right to require guarantee from the Client in respect of its payment and its compliance with other obligations.
 - 3.4 The date of confirmation of the contract by Twincomm, or the time at which Twincomm implements the contract will apply as the time of the contract's formation.

4 Liability

- 4.1 Twincomm's total liability on account of an attributable breach of contract or on any other account, explicitly including each breach of a warranty obligation agreed with the Client, will be restricted to compensation for direct loss and/or damage up to no more than the amount of the price stipulated for the contract (exclusive of VAT). If the contract is mainly a continuing performance contract with a term of more than one year, the price stipulated for the contract will be determined on the aggregate of the considerations (exclusive of VAT) stipulated for one year. Under no circumstances will Twincomm's total liability for direct loss and/or damage, for whatever reason, exceed € 100,000.
- 4.2 Twincomm's liability for loss and/or damage as a result of death, bodily harm or on account of damage to property will never exceed € 1,000,000.
- 4.3 Twincomm excludes any liability for indirect and consequential damage, loss of profit, lost savings, reduced goodwill, loss due to business interruption, loss as a result of claims of the Client's customers, loss and/or damage in connection with the goods, materials or software of third parties and with engaging suppliers the Client requires Twincomm to use. Twincomm's liability for mutilation, destruction or loss of data of documents as well as direct trading loss is also excluded.
- 4.4 The exclusions and limitations of Twincomm's liability, as set out in the previous paragraphs of this Article 4, will in no way affect the other exclusions and limitations of Twincomm's liability under the other Articles in these General Terms and Conditions.
- 4.5 Exclusions and limitations referred to in Articles 4.1 to 4.4 inclusive will cease to apply if and in so far as the loss and/or damage was the result of intent or recklessness on the part of Twincomm's company management.
- 4.6 Unless performance by Twincomm is permanently impossible, Twincomm will only be liable on account of attributable breach of contract if the Client has promptly given Twincomm notice of default stating a reasonable term for curing the breach, and Twincomm continues to fail to fulfil its obligations even after expiry of the term. The notice of default shall comprise a description of the breach which is as complete and detailed as possible with a view to enabling Twincomm's adequate response.
- 4.7 The condition for any right to claim compensation for loss and/or damage will always be that the Client reports the loss and/or damage to Twincomm in writing as soon as possible after it has arisen. Each claim for damages against Twincomm will lapse by the mere expiry of twelve months of such claim arising.

5 Force Majeure

- 5.1 If after the contract is formed Twincomm is unable to perform as a result of circumstances that were unknown to Twincomm at the time of its formation and/or that are not attributable, Twincomm will be entitled to demand that the content of the contract be amended in such a way that fulfilment is still reasonably possible.
- 5.2 In addition, Twincomm will be entitled to suspend the performance of its obligation and will not be in default if it is temporarily prevented from fulfilling its obligations as a result of a change of circumstances which at the time of the conclusion of the contract could not reasonably be expected and which are beyond its sphere of its influence.

- 5.3 If Twincomm has fulfilled its obligation in part, it will be entitled to claim a pro rata part of the stipulated price on the basis of such work already having been performed and the costs incurred.
- 5.4 The following will also be considered a non-attributable breach of contract (force majeure) and contractually equivalent: restricting government measures of whatever nature, whole or partial default of a third party from whom goods or services must be received, default of a carrier and any other circumstances that Twincomm could not reasonably have anticipated and is unable to affect, as well as any circumstance that would have prevented Twincomm from concluding the contract at all or under similar conditions, if such circumstance had been known to it at the time that the contract was concluded. In all these cases Twincomm will be entitled either to suspend the contract for a maximum of twelve months or to terminate it wholly or in part without giving notice of default and without court intervention, such without being obliged to pay any compensation or to provide any warranty.

6 Complaints and objections

- 6.1 The Client cannot invoke a defect in the performance if he has not lodged a complaint or a reasoned objection with Twincomm in writing by means of a registered letter promptly after he has or reasonably should have discovered the defect. Objections will only be dealt with if they concern goods delivered in their original, unprocessed condition.
- 6.2 Promptly is understood to mean within five days after delivery of the goods after the Client's discovery of the defect, in which case he must describe in writing to Twincomm what the defect is and when and how he discovered or could have discovered it.
- 6.3 Any complaints about the invoices must be lodged within eight days of receipt of the invoice in writing. The Client will lose all rights and powers available to him pursuant to a defective condition if he has not lodged his complaint in accordance with the above terms and/or has not offered Twincomm the opportunity to remedy the defects concerned.
- 6.5 Any complaints with regard to the product or the invoice will not entitle the Client to wholly or partly suspend his payment(s).

7 Changes and additional work

- 7.1 If at the request or with the prior consent of the Client Twincomm has performed any work or any other activities with another content or beyond the scope of the agreed work and/or activities, this work or these activities will be paid for by the Client in accordance with the agreed rates and in the absence thereof, in accordance with the usual assignment rates. Twincomm will never be obliged to comply with such a request and it may require that a separate contract be concluded in writing.
- 7.2 The Client accepts that by reason of the work or activities as referred to in this Article the agreed or expected time of completion of the services provided and the mutual responsibilities of the Client and Twincomm may be affected. The fact that there is a demand for additional work or additional work is carried out during the performance of the contract will never constitute grounds for the Client to terminate or cancel the contract.
- 7.3 Insofar as a fixed price has been agreed for the provision of services, Twincomm will inform the Client in writing if so requested of the financial consequences of the additional work or performances as referred to in this Article.

8 Subcontracting and third parties

- 8.1 Twincomm will be entitled to engage suppliers, subcontractors and/or other third parties for the execution of the contract.
- 8.2 If Twincomm uses suppliers, subcontractors and/or other third parties, it will remain responsible towards the Client for the performance of the contract.



9 Payment

- 9.1 All payments of Twincomm's invoices must be credited to Twincomm's account within 14 days of the invoice date, unless agreed otherwise in writing.
- 9.2 All payments of invoices must be effected within the agreed term of payment, without any discount or appeal for compensation, unless agreed otherwise in writing. If payment has not taken place on the due date/within one month of the invoice date, Twincomm will be entitled, after the expiry of the term, to charge the Client an amount as compensation for loss of interest equal to 2% per month, a part of a month being calculated as a full month. A discount for prompt payment, explicitly mentioned on the invoice, may be granted if payment has taken place within the agreed term.
- 9.3 In case of judicial or extrajudicial collection, in addition to the compensation referred to above, the Client will be liable for all (legal and enforcement) costs reasonably incurred, including any lawyer's and/or expert's and/or other third parties' fees amounting to at least € 750. If Twincomm petitions for the Client's bankruptcy, besides the principal amount, interest and extrajudicial costs, the costs of the bankruptcy petition will be payable as well. The extrajudicial costs will at least be 15% of the principal sum due. The amounts will be owed upon the mere engagement of the above parties by Twincomm.
- 9.4 If the Client fails to pay within the term mentioned in the previous paragraph, the Client will be in default de jure and will owe the statutory interest due at call on the outstanding amount from the due date until the date on which payment is made in full.
- 9.5 All prices mentioned by Twincomm are exclusive of VAT, unless explicitly stated otherwise.

10 Intellectual property rights

- 10.1 Copyright or any other intellectual property rights concerning any equipment, software, drafts, analyses, designs, drawings, structures, presentations, reports and suchlike as well as any preparatory material produced by or by order of Twincomm or any suppliers/manufacturers will remain the property of Twincomm and/or the suppliers/manufacturers in question, unless these rights have been transferred expressly and in writing to the other party.
- 10.2 The Client will not be allowed to remove any notice concerning the confidential nature or concerning the copyrights, trademarks, trade names or any other rights of intellectual property from the works / materials referred to in paragraph **Fout! Verwijzingsbron niet gevonden.**
- 10.3 The Client will be obliged to indemnify Twincomm against and to compensate it for any claims of third parties against Twincomm if such third party's loss and/or damage was caused by an infringement of patents and/or copyrights, by the use of data, materials or parts, or by the application of processes that the Client provided or prescribed for Twincomm.

11 Rescission and termination of a contract

- 11.1 Each of the Parties will only be authorized to rescind the contract on account of an attributable breach of contract if the other party, in all cases always after giving a notice of default in writing containing as many details as possible and setting a reasonable term in which the breach can be remedied, attributable remains in material default to meet his /its obligations under the contract. The Client's payment obligations and all other obligations of the Client or a third party to be engaged by the Client to co-operate will always be a fundamental obligation under the contract.
- 11.2 The Client will never be entitled to terminate a contract for services concluded for a fixed term before the end of that term.
- 11.3 Each of the Parties may wholly or in part terminate the contract in writing without notice of default and with immediate effect, if the other party is granted a suspension of payments, whether provisional or otherwise, if a bankruptcy petition has been filed against the other party, if the company of the other party is wound up or discontinued other than for the benefit of the reconstruction or merger of

companies. Twincomm will never be obliged to refund any of the received funds or to pay any damages on account of this termination. In the case of the Client's bankruptcy, the right to use the software and suchlike made available to the Client will lapse by operation of law.

- 11.4 Rescission of a contract will take place by registered letter to the other party.
- 11.5 In the case of premature, extrajudicial rescission of the contract by Twincomm on the grounds of failure to perform the payment obligations by the Client, Twincomm can charge the loss of sales as a consequence of this rescission up to an amount equal to the consideration for the remaining term of the contract at the time of the rescission that would have applied should the contract have continued to exist.

12 Disputes

- 12.1 All contracts concluded with Twincomm are governed by Dutch law. Any disputes will be submitted to the competent court in Den Bosch, unless statutory provisions dictate otherwise.
- 12.2 The applicability of the 1980 Vienna Sales Convention is excluded.

II - Delivery of goods

13 Applicability delivery of goods

- 13.1 Articles 13 to 20 inclusive will apply if Twincomm delivers goods such as products, items, equipment and/or (software) licences based on sale, rental or otherwise.
- 13.2 Where there is a conflict between one or more provisions of the general part of these conditions, Articles 1 to 12 inclusive and one or more provisions as meant in 13.1, the latter will prevail.

14 Delivery time and delivery place

- 14.1 Delivery dates given are indicative and will never be considered as a deadline whose non-observance constitutes default, unless expressly agreed otherwise. The delivery time commences when all data, drawings etcetera necessary for the execution of the assignment are in the possession of Twincomm. Alterations to an assignment may result in Twincomm exceeding the original delivery time. Exceeding the delivery time will not give any entitlement to compensation.
- 14.2 As from the time at which the goods are ready for delivery and invoicing has taken place, they will be at the Client's risk.
- 14.3 Twincomm will ship the goods to the designated invoice or delivery address, unless there is a reason to suspect deceit or fraud.
- 14.4 Twincomm will at all times have the right to deliver in parts.
- 14.5 The Client will be obliged to take delivery of the products purchased at the time they are delivered to him or at the time they are made available to him in accordance with the contract. If the Client refuses to take delivery of the products or fails to provide the information or instructions necessary for delivery, the products will be stored for the account and at the risk of the Client. In that case all additional costs will be payable by the Client, including the storage costs in all events.

15 Transport

- 15.1 The goods the Client has ordered from Twincomm will be shipped for the account and at the risk of the Client, unless agreed otherwise in writing.
- 15.2 If the provisions of **Fout! Verwijzingsbron niet gevonden.** do not apply, Twincomm will never be held liable for more than the amount Twincomm can receive from the carrier and/or insurer in connection with the loss or damage suffered during the transport and at the Client's request it will assign its claim on the carrier or on the insurance company to the Client.
- 15.3 Any return shipments must be delivered in proper packaging to an address yet to be determined by Twincomm, after written confirmation by Twincomm. Return shipments will only be accepted within the statutory time limit, and Twincomm reserves the right to charge the Client the real costs incurred.

16 Warranty

- 16.1 Twincomm will do its utmost to repair any defect in the material or manufacturing of the items or equipment produced by Twincomm, as well as in components supplied by Twincomm under the warranty, free of charge and within a reasonable term, if Twincomm was notified hereof and a detailed description of them was given within a period of three months after delivery. The warranty period commences on the invoice date.
- 16.2 For items and equipment not manufactured by Twincomm, no further warranties will be accepted than given by Twincomm's suppliers. In that case the (warranty) conditions and the warranty period of the manufacturer will apply.
- 16.3 If in the reasonable opinion of Twincomm or its suppliers repair is not possible, or will take too long, or if disproportionate expenses are involved, Twincomm will be entitled to replace the equipment free of charge by other, similar, but not necessarily identical equipment. Installation, (data) conversion and suchlike necessary as a result of repair or replacement will not be covered by the warranty. All replaced



components will be the property of Twincomm or its suppliers.

- 16.4 The Client warrants the use of the products in accordance with the specifications supplied and Twincomm's instructions for their correct application in its organisation.
- 16.5 The warranty obligation will lapse if any defects in the equipment or in the components are wholly or in part the result of normal wear and tear, of incorrect, inaccurate or inexperienced use, of incorrect maintenance, of external causes/contingencies such as fire or water damage or if notification of such defects is not given until after the expiry of the warranty term, or if the Client makes any alterations to the equipment or to components supplied by Twincomm under the warranty without Twincomm's permission. Twincomm will not withhold its consent on unreasonable grounds. The warranty obligation will lapse also if the serial number has been removed or rendered illegible.
- 16.6 Any invoking of the Client of the non-conformance of the goods delivered other or further than the provisions of Articles 16.1 and 16.2 is excluded. The Client may in any case not invoke the non-conformance of the goods delivered if and insofar as this is prohibited by law.
- 16.7 The costs of activities and repairs outside the scope of this warranty will be charged by Twincomm in conformity with its usual rates. Twincomm will have no obligation to repair any defects reported after the expiry of the warranty period referred to in Articles 16.1 and 16.2, unless a maintenance contract was concluded between the Parties.
- 16.8 If the items handed in for repair do not appear to have any defects or the defects have been remedied by means of software, all costs incurred will be charged to the Client with a minimum start rate of € 660, also during the warranty period.

17 Retention of title and right of pledge

- 17.1 Any goods supplied or to be supplied by Twincomm will always be supplied subject to retention of title. Twincomm will remain the owner of the goods supplied or to be supplied as long as the Client has not paid Twincomm's the amounts it owes following from the performance of the contract or a similar contract. Twincomm will also remain the owner of the goods supplied or to be supplied as long as the Client has not paid the amounts it owes on account of a breach of the above-mentioned contracts, including penalties, interest and costs.
- 17.2 As long as the amounts owed above have not been paid, the Client will not be entitled to create a pledge or a non-possessory pledge on the goods supplied by Twincomm and will always independently undertake, or at least at Twincomm's first request, to declare towards third parties who wish to create such a pledge thereon that it is not authorized to encumber property.
- 17.3 In case the Client fails to comply with any obligations towards Twincomm arising from the contract with regard to sold goods, Twincomm will be entitled to repossess the original goods without any notice of default. The Client authorizes Twincomm to enter the premises where these goods are stored and to repossess them.
- 17.4 Twincomm will transfer the ownership of the supplied goods to the Client when the Client has complied with all of his payment obligations under this and similar contracts.
- 17.5 If third parties attach the goods delivered subject to retention of title or wish to create or exercise any rights on the goods, the Client will be obliged to inform Twincomm as soon as may reasonably be expected.
- 17.6 The Client will not be permitted to remove or to alter any brand-identifying marks, or any notices concerning the copyright, trademarks etcetera affixed to the products or their packaging, including any notices with regards to the confidential nature and the confidentiality of the software or to alter or copy the products or any part of them.

18 Licence contract

- 18.1 Software, also if it is included in the equipment supplied, will be licensed and supplied subject to licence contract conditions setting out how the software may be used and what restrictions apply.

The licence contract will be provided together with the software.

- 18.2 If this licence contract is issued digitally, and is accepted digitally by the Client, the Client agrees to all the conditions and provisions of the licence contract and accepts that this licence contract will be as legally valid as a written and signed contract.
- 18.3 This licence contract forms an integral part of these General Terms and Conditions of Twincomm.

19 Intellectual property rights, supplementary upon the delivery of goods

- 19.1 Even if the contract does not explicitly provide authorization to this end, Twincomm will be allowed to make technical improvements to protect the software, equipment, data bases and suchlike in connection with an agreed restriction of the content or the duration of its right to use these objects.
- 19.2 The Client will never be permitted to remove or circumvent such a technical improvement, or to have it removed or circumvented.

20 Payment, supplementary upon the delivery of goods

- 20.1 Twincomm reserves the right to ship the goods cash on delivery.
- 20.2 For each assignment, Twincomm will be entitled to charge a surcharge for transport and packaging as well as a contribution toward the processing and administrative costs, and in the case of a cash on delivery shipment, to charge an additional surcharge.

III - Advice, consultancy, development and project management

21 Applicability of advice, consultancy, development and project management

- 21.1 Articles 21 to 23 inclusive will apply if Twincomm provides services in the field of consultancy, advice, development, project management and implementation.
- 21.2 Where there is a conflict between one or more provisions of the general part of these conditions, Articles 1 to 12 inclusive and one or more provisions as meant in 21.1, the latter will prevail.

22 Service provision

- 22.1 Twincomm will do its utmost to provide its services with due care, as and when necessary in accordance with the agreements and procedures agreed with the Client. All contracts for services will be executed on the basis of a best efforts obligation. Unless agreed otherwise in writing, Twincomm will not be held to a processing time for the assignment.
- 22.2 If it has been agreed that services will be provided in stages, Twincomm will be entitled to postpone the start of such services provision belonging to a certain stage until the Client has approved the results of the preceding stage in writing.
- 22.3 Twincomm will not be obliged to follow directions which alter or supplement the content or the scope of the service provision; if such directions are followed, however, the relevant work will be paid in accordance with Twincomm's usual rates.
- 22.4 If a contract for services has been concluded with a view to execution by one particular person, Twincomm will always be entitled to replace this person, after consultation with the Client, by one or more other persons with the same or similar qualifications.
- 22.5 If Twincomm provides services on the basis of data supplied by the Client, these data will be prepared by the Client in accordance with the conditions set by Twincomm and submitted for the account and at the risk of the Client. The Client warrants that all materials, data, software, procedures and instructions he has supplied to Twincomm for the provision of the services are correct and complete, and that information carriers submitted to Twincomm satisfy Twincomm's specifications.
- 22.6 Unless explicitly agreed otherwise with the Client, Twincomm will exclusively provide its services and base its planning and activities on the execution of its work during usual working days and hours.
- 22.7 Unless agreed otherwise in writing, the use the Client makes of the advice given by Twincomm will always be for the account and at the risk of the Client.
- 22.8 Where applicable, the burden of proof that the services provided by Twincomm's and the results thereof do not comply with that agreed or with what may be expected from a reasonably acting and competent service provider will always be on the Client, without prejudice to Twincomm's right to furnish evidence to the contrary by all means available.

23 Payment, supplementary upon service provision

- 23.1 In the absence of an invoice schedule agreed on explicitly, all amounts with regard to the services provided by Twincomm will be payable in arrears each calendar month.
- 23.2 Barring other agreements Twincomm will provide insight into the executed work, time spent and costs incurred for the Client in the manner usual for Twincomm.

NL - Veldhoven - 01022012 - 01