

## **General Terms and Conditions of Sale and Delivery of Qualed Europe B.V.**

### **I. Scope of Application**

Sales and deliveries by Qualed Europe B.V. ("Qualed") shall be made exclusively in accordance with the following General Terms and Conditions of Sale and Delivery ("Terms of Delivery"), which shall be accepted by Customer by the placing of an order or the receipt of delivery. They shall also apply to all future transactions with Customer. The application of Customer's conflicting or supplementary terms and conditions shall be excluded, even if Qualed does not expressly object to such terms and conditions.

### **II. Conclusion of Contract**

1) Offers by Qualed shall be non-binding. A contract shall not become effective until it has been confirmed by Qualed in a written confirmation of order and shall be governed exclusively by the contents of the confirmation of order and these Terms of Delivery. Verbal agreements or promises shall only be valid if an authorized employee of Qualed has confirmed them in writing.

2) Qualed retains all rights in the sales documentation (in particular pictures, drawings, data on weight and size) and samples. These items must not be made available to third parties and must be returned to Qualed without undue delay upon request.

### **III. Delivery Periods and Delivery Dates**

1) Delivery dates and delivery periods are only binding if they have been agreed in the contract as binding and Customer has provided Qualed in a timely manner with all of the information or documentation required for the performance of such delivery and Customer has made any advance payments in the manner and amount as agreed upon by the parties. Delivery periods agreed upon by the parties shall commence on the date of the confirmation of order. In the event of additional or supplementary contracts entered into at a later date, the delivery periods and delivery dates shall be extended or rescheduled accordingly, as applicable.

2) Events that are unforeseeable, unavoidable and outside the control and sphere of influence of Qualed and for which Qualed is not responsible, such as acts of God, war, natural disasters or labor disputes, shall release Qualed for the duration of such event from its obligation to make timely delivery or to perform timely. Delivery and performance periods and dates, as the case may be, shall be extended or rescheduled, as applicable, by the length of such disturbance, and Customer shall be informed of the occurrence of such disturbance in a reasonable manner. If the end of such disturbance is not

foreseeable, or should it continue for more than two months, each party is entitled to rescind the contract.

3) With regard to goods to be delivered ("Goods") that Qualed does not produce itself, the obligation to deliver shall be subject to Qualed's correct and timely receipt of such Goods from its suppliers.

4) If deliveries by Qualed are delayed, Customer shall only be entitled to rescind the contract if Qualed is responsible for the delay and a reasonable grace period set by Customer has expired.

5) Should Customer be in default of the acceptance of delivery or should he be in breach of any other obligations to cooperate, Qualed shall be entitled to reasonably store the Goods at Customer's risk and expense or to rescind the contract in accordance with the statutory provisions without prejudice to its other rights.

6) Qualed may make partial deliveries for good reason if and to the extent this is reasonable for Customer.

### **IV. Shipment, Passage of Risk**

1) In the absence of any other instruction by Customer, shipment shall be made using a reasonable method of shipment in the usual manner of packaging.

2) Delivery is free within the EU on an address specified by the Customer unless otherwise agreed on. If the delivery has a value of less than € 350, Qualed is entitled to charge freight and/or administration cost.

The risk shall pass to Customer in accordance with FCA Incoterms 2000 Customer's registered office, unless otherwise agreed. If the Goods shall be collected by Customer or a third party authorized by Customer and if delivery is delayed on grounds for which Customer is responsible, risk shall pass to Customer on the date Customer is notified that the Goods are ready for shipment.

### **V. Prices, Terms of Payment**

1) Unless the parties have agreed upon a certain price, the price shall be determined by the price list of Qualed as applicable at the date of the conclusion of the contract.

[2) Qualed reserves the right to modify the prices, provided that such price changes shall not affect the prices for Qualed products set forth in orders which have been accepted by Qualed prior to the effective date of any such price changes.

3) For orders to be delivered in the Netherlands for which the total collectable amount is less than €350 and for orders to be delivered outside the Netherlands for which the total collectable amount is less than €1000, Qualed includes packaging and shipping costs, unless otherwise agreed.

4) Qualed is entitled to issue partial invoices for partial deliveries as defined in section III. 6) hereof.

5) Qualed will send the invoice of 100% of the total collectable amount at the moment of submitting the order by the customer and acceptance of the order by Qualed, unless otherwise agreed on.

6) Each invoice of Qualed shall be due for payment without any deductions within 14 days from the date of invoice; if this period for payment lapses unsuccessfully, Customer shall be in default. Payments by Customer shall not be deemed to have been made until Qualed has received such payment. Unless otherwise instructed by Customer, payments shall always be applied against the oldest debt of Customer.

7) In the event that Customer is in default of payment, Qualed shall be entitled to demand 1% monthly compound interest as well as any debt collection costs in full. Any claims for further damages due to the default shall remain unaffected.

8) Bills of exchange and checks shall only be accepted on account of performance upon special arrangement and without any bank charges or other costs for Qualed.

9) Customer is only entitled to a set-off if his counterclaim is uncontested, ready for decision or has been finally adjudicated.

10) Customer is only entitled to assert a right of retention to the extent that his counterclaim is based on the same contract and is uncontested, ready for decision or has been finally adjudicated.

11) If Qualed becomes aware of the risk of Customer's impossibility to perform after conclusion of the contract, Qualed shall be entitled to make outstanding deliveries only against prepayment or the provision of security. If such prepayments or security have not been rendered even after the expiry of a reasonable grace period, Qualed may partially or totally rescind individual or all of the affected contracts. Qualed shall remain entitled to assert further rights.

12) In the event Qualed is entitled to claim damages for default, Qualed shall be entitled to claim a lump-sum compensation in the amount of 10% of the contract value, unless this lump-sum exceeds the amount of damages to be expected in the ordinary course of events or the usual reduction in value. The Customer shall be entitled to prove that Qualed has suffered no damages or only lower damages. Qualed's right to claim further damages shall remain unaffected.

## **VI. Retention of Title**

1) The Goods shall remain the property of Qualed until any and all claims of Qualed arising from its business relationship with Customer have been paid in full.

2) In the case of current accounts, this retention of title shall serve as security for the claim for the balance to which Qualed is entitled.

3) Customer shall only be allowed to sell the products subject to retention of title ("Products subject to Retention of Title") within normal and proper business transactions. Customer is not entitled to pledge the Products subject to Retention of Title, grant chattel mortgages on them or make other dispositions endangering Qualed's title to such products. Customer hereby assigns its receivables arising from the resale of the products to Qualed, and Qualed hereby accepts such assignment. Should Customer sell the Products subject to Retention of Title together with other goods, this assignment of receivables shall only be agreed to for an amount equivalent to the price agreed to between Qualed and Customer plus a safety margin of 10% of this price. Customer is granted the revocable authorization to collect in trust the claims assigned to Qualed in his own name. Qualed may revoke such authorization and the right to resell the products if Customer is in default of the performance of material obligations such as making payment to Qualed; in case of such revocation, Qualed shall be entitled to collect the claims itself.

4) Customer shall provide Qualed at all times with all desired information concerning the Products subject to Retention of Title or receivables assigned to Qualed under this contract. Customer shall immediately notify Qualed of any attachments of or claims to the Products subject to Retention of Title by third parties and shall provide the necessary documents in this regard. Customer shall at the same time advise the third party of Qualed's retention of title. The costs of a defense against attachments and claims shall be borne by Customer.

5) Customer is obliged to treat the Products subject to Retention of Title with care for the duration of the retention of title.

6) Should the realizable value of the securities exceed all of Qualed's secured claims by more than 10%, Customer shall be entitled to demand a release to such extent.

7) Should Customer be in default of material obligations such as payment to Qualed, and should Qualed rescind the contract, Qualed may, notwithstanding any other rights, request surrender of the Products subject to Retention of Title and may make use of them otherwise for the purpose of satisfying its matured claims against Customer. In such case, Customer shall grant Qualed or Qualed's agents immediate access to the Products subject to Retention of Title and surrender the same.

8) On Qualed's demand, Customer is obliged to appropriately insure the Products subject to Retention of Title, provide Qualed with the respective proof of such insurance and assign the claims arising under such insurance to Qualed.

## **VII. Intellectual Property Rights**

Customer shall not perform and may not authorize a third party to perform any act that may endanger the trademarks or other intellectual property rights used by Qualed in relation to the Goods. In particular, Customer may not obscure, alter, remove or supplement the trademarks and/or other distinctive features, whether imprinted on, attached in any other manner to or part of the Goods.

## **VIII. Quality, Customer's Rights in case of Defects, Duty to Inspect the Goods**

1) Upon passing of the risk the Goods shall be of the agreed quality; the quality will exclusively be determined by the specific written agreements concerning the characteristics, features and specifications of the Goods.

2) Information provided in sales catalogues, price lists and any other documents provided by Qualed or any other descriptions of the Goods shall under no circumstances constitute a guarantee for any specific quality of the Goods; such specific quality or durability guarantees must expressly be made in writing.

3) Qualed reserves the right to change the Goods slightly with regard to their construction, material and/or finish to the extent their agreed characteristics are not changed hereby.

4) Customer's rights in case of defects of the Goods shall require that he inspects the Goods upon delivery and notifies Qualed of any defects in writing and without undue delay, but no later than two weeks following delivery; hidden defects must be notified to Qualed in writing without undue delay upon their discovery.

5) In the event of a notification of a defect, Qualed shall have the right to inspect and test the Goods to which objection was made. Customer will grant Qualed the necessary period of time and opportunity to exercise such right. Qualed may also demand from Customer that he returns to Qualed at its expense the Goods to which objection was made. Should Customer's notification of the defect turn out to be unjustified and provided Customer has realized this prior to the notification of the defect or has not realized it in a negligent manner, Customer shall be obliged to reimburse Qualed for all costs incurred in this respect, e.g. travel expenses or shipping costs.

6) Qualed shall be entitled to remove the defect at its option by remedying the defect or, alternatively, by

delivering a replacement, both free of charge to Customer (together "Subsequent Performance").

7) Customer shall give Qualed the necessary reasonable time and opportunity for the Subsequent Performance.

8) Items that have been replaced by Qualed shall, upon its demand, be returned to Qualed.

9) Customer's rights in case of defects shall be excluded in the following events: (i) natural wear and tear, (ii) defects of the Goods due to reasons for which Customer is responsible, such as inappropriate or improper use, the non-observance of the operation instructions, incorrect start-up of operation or faulty treatment (e.g. excessive wear), (iii) incorrect assembly and/or installation by Customer or a third party commissioned by Customer, and (iv) the use of unsuitable accessories or unsuitable spare parts or the performance of inappropriate repair works by Customer or a third party commissioned by Customer.

10) Should the Subsequent Performance fail, should such remedy be unreasonable for Customer or has Qualed refused such remedy, Customer may, at its option, rescind the contract in accordance with the statutory provisions or reduce the purchase price and/or claim either damages or the reimbursement of its futile expenses pursuant to section IX.

11) The limitation period for Customer's claims for defects shall be twelve months beginning with the handover of the Goods to Customer. For damage claims of Customer due to other reasons than defects of the Goods or for rights of Customer with respect to defects concealed in bad faith or caused intentionally, the statutory limitation period shall apply.

[12] If used Goods are sold, all rights of Customer due to defects shall be excluded, save for Customer's mandatory claims.]

## **IX. Limitation of Liability**

1) Subject to the provision in section IX. 2), Qualed's contractual and statutory liability to pay damages, no matter for which legal reason, shall be limited as follows:

(i) For damages caused by a slightly negligent breach of a material contractual obligation, Qualed shall only be liable up to the amount of the contract-typical and foreseeable damage at the time of entering into the contract;

(ii) Qualed shall not be liable for damages caused by a slightly negligent breach of a non-material contractual obligation and for other cases of slight negligence.

(iii) Whenever Qualed is liable, and on whatever basis, and whether as per clause IX 1) (i) or otherwise, and for whatever type of loss/damage, Qualed's liability is always limited to the lowest of amounts (a) / (b) referred

to hereafter: (a) the value of the Goods in relation to which Qualed's liability arose; (b) €5,000.

2) The limitation of liability as set out above shall not apply to damages caused intentionally or by gross negligence, in case of any mandatory liability and in case of culpably caused personal injuries. Furthermore, it shall not apply if and to the extent Qualed has assumed a guaranty.

3) Sections XI. 1) and 2) shall apply accordingly to Qualed's liability for futile expenses.

4) The Customer shall take all reasonable measures necessary to avert and reduce damages.

#### **X. Product Liability**

If Customer sells the Goods, whether unchanged or changed, whether after processing, transformation, joining, blending or mixing with other goods, Customer shall indemnify Qualed in their internal relationship against any product liability claims of third parties if and to the extent Customer is responsible for the defect that caused the liability also within their internal relationship.

#### **XI. General Provisions**

1) Customer may assign the rights arising from the parties' contractual relationship to third parties only with Qualed's written consent.

2) Amendments and supplements to the contract and/or these Terms of Delivery and any side agreements must be made in writing. The same shall apply to the amendment of this written form requirement.

3) If a provision of the contract and/or these Terms of Delivery is invalid, in whole or in part, the validity of the remaining provisions shall remain unaffected hereby.

4) Exclusive venue for any and all disputes arising from or in connection with the parties' contractual relationship shall be The Rotterdam District Court. Qualed is entitled, however, to sue Customer at any other court having statutory jurisdiction.

5) The laws of the Netherlands shall apply to these Terms of Delivery and the parties' contractual relationship. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

Qualed Europe B.V., Nieuwerkerk a/d IJssel  
First of July 2020