

General sales, supply and payment conditions of Qonnect B.V.

01-11-2020 - Chamber of Commerce Limburg (53037456)

01 Definitions

1.1 The following definitions apply for the purposes of these sales conditions:

‘Qonnect’: Qonnect B.V. with its registered office in Maastricht-Airport, or one of its associated companies;

‘Principal/Client’: a party who places an order with Qonnect or with whom Qonnect enters into an agreement; ‘Goods’: goods and/or services supplied by Qonnect to the Principal/Client and/or on order.

02 Applicability

- 2.1 These Qonnect sales conditions are exclusively applicable to all orders, assignment, and/or agreements with Qonnect regarding the supply of Goods, hereinafter referred to as the ‘Sales Conditions’.
- 2.2 By placing an order or assignment with Qonnect, the Principal/Client accepts the applicability of these Sales Conditions. Once the parties enter a contract under these Sales Conditions, the Sales Conditions are also applicable to later agreements that the parties enter into.
- 2.3 The applicability of conditions used by the Principal/Client, regardless of whether these are laid down in general terms and conditions used by the Principal/Client, are expressly excluded.
- 2.4 Any mention or reference in an assignment or order to the Principal/Client’s own general conditions is not applicable to the agreement entered into with Qonnect.
- 2.5 If Qonnect acts in its capacity as an agent/representative for a third party and acts on behalf of, on the instructions of, or account and at the risk of its principal, Qonnect excludes all liability under whatever name for the agreement entered with the Principal/Client and the performance thereof. In any case, the Sales Conditions of Qonnect are and remain applicable, where appropriate mutatis mutandis and as far as possible.
- 2.6 These Sales Conditions can be inspected and may be requested from Qonnect in Dutch, English, and German. In the event of conflicting interpretations, the Dutch version of these Sales Conditions takes precedence.

03 Offers, orders and agreements

- 3.1 All offers from Qonnect are non-binding. An order and an acceptance of an offer by the Principal/Client are considered irrevocable.
- 3.2 The correct execution of a verbal, whether or not telephonic, order is at the full risk and expense of the Principal/Client. Qonnect is only liable if it has confirmed acceptance of the offer in writing or has commenced the execution thereof. Qonnect is also only liable for what it has accepted.
- 3.3 If the Principal/Client provides Qonnect with details, drawings, etc. Qonnect may assume the accuracy thereof and will base its offers on this.
- 3.4 All offers, quotations, and tenders are valid for three months from the date of the quotation, on condition that this was not agreed otherwise in writing but remain entirely non-binding. If the offer contained in the quotation is accepted, Qonnect is entitled to revoke its offer within two working days of receipt of the acceptance.
- 3.5 Verbal and telephonic agreements as well as promises made by Qonnect employees are only binding on Qonnect if these have been confirmed by Qonnect in writing.

- 3.6 Samples or specimens passed on to the Principal/Client by Qonnect accompanying or following a quotation are only considered as an approximate indication. Details derived from these are only binding if this has been expressly agreed in writing.

04 Changes

- 4.1 Amendments to the sales agreement or the Sales Conditions only come into force if they have been expressly agreed in writing between the parties.
- 4.2 In the event of factors that increase the cost price, such as an increase in cost prices and/or an increase in the suppliers' prices and/or a change in the currency to the disadvantage of Qonnect, Qonnect is entitled to charge the price difference.

05 Delivery and transfer of risk

- 5.1 The Principal/Client carries the risk of the Goods ordered by it as soon as the Goods have been delivered to the Principal/Client. The Goods are delivered to the Principal/Client as soon as the Goods are deposited at the address indicated by the Principal/Client or on the order, or as soon as the Goods were received on-site by the Principal/Client.
- 5.2 Unless agreed otherwise, Qonnect decides on the transport method.
- 5.3 The Principal/Client is obliged to inspect the Goods upon arrival. In the event of assumed transport damage or a likely loss, the Principal/Client must immediately inform the carrier thereof by having it note this on the waybill or packing slip, of which a copy must immediately be sent to Qonnect, and Qonnect must also be contacted immediately.

06 Force majeure

- 6.1 Force majeure affecting Qonnect concerns any independent circumstances not caused by or of which the risk does not lie with Qonnect, including when these circumstances could already be anticipated at the moment of signing the agreement, making it impossible for Qonnect, either permanently or temporarily, to comply with its commitments based on the agreement, including in any event, as far as this is not yet included in this description, breakdown in transport, limitations on import/export or other limitations as set by the government, lack of raw materials, contingency problems with production or transport, or illness of personnel, disruption of business, war, the threat of war, terrorism, riots, rebellion, strikes, transport problems, fire, water damage, and other disruptions in Qonnect's commercial dealings.
- 6.2 If Qonnect is temporarily unable to meet its obligations due to circumstances in the sense of article 6.1 above, Qonnect is entitled to suspend the execution of the agreement for the duration of the disruption. The Principal/Client is not entitled to any compensation for any loss, expenses, or interest due to this.
- 6.3 If Qonnect is permanently unable to meet its obligations due to circumstances in the sense of article 6.1 above, every party is entitled to terminate the Agreement as far as it had not been performed at that moment, if these circumstances continue for longer than 60 days. The Principal/Client is not entitled to any compensation for any loss, expenses, or interest due to this.

07 Prices

- 7.1 The prices charged by Qonnect are the prices mentioned in the price list applicable on the date of delivery, which list is available from Qonnect upon request. All prices quoted by Qonnect (in quotations, tenders, catalogues, discount summaries, etc.) are excluding VAT, in euros, unless expressly stated otherwise. Qonnect is entitled to change prices in the interim after the publication of a price list. Agreements already in force are not affected by this.
- 7.2 All supplies are charged Ex Works + calculated freight, and all expenses are charged on the invoice, unless expressly agreed otherwise. These expenses are calculated according to the rate applicable at the time of the supply to be executed.

- 7.3 Unless agreed otherwise in writing, a small order with a net value of maximum € 75.00 excluding VAT is subject to the usual shipment costs plus a 'small order charge' of € 25.00.
- 7.4 A shipment to a delivery address that is not the Principal/Client's address is subject to the usual shipment costs, and possibly a 'small order charge', plus an admin fee of € 10.00.
- 7.5 The agreed to fees are binding on repair services carried out by Qconnect. The Qconnect Technical Services assesses whether a returned product is to be repaired under guarantee or subject to payment of all the expenses relevant to the repairs. The Technical Services then prepare an estimate of the repairs. If the estimated expenses amount is more than a third of the new value, repairs take place after discussion with the customer. In all other cases, repairs are carried out immediately and the expenses of the repairs are charged on to the Principal/Client.

08 Guarantee

- 8.1 Qconnect guarantees the quality of the Goods supplied by it according to what the Principal/Client may reasonably expect by virtue of the agreement. Should it become evident that the Goods contain clearly demonstrable defects or factory errors, Qconnect must repair these defects, replace the Goods, or apply a price reduction subject to the choice of and exclusively based on the opinion of Qconnect. This guarantee is valid for six months after delivery, unless expressly agreed to otherwise in writing.
- 8.2 The guarantee does not in any case cover defects occurring due to or as a consequence of normal wear and tear (such as batteries, nosepieces, mandrels, etc.), indiscriminate use, failure to observe directions or instructions, work carried out by external parties, assembly/installation or repairs by external parties or by the Principal/Client without sending a request to, or seeking the written consent of, Qconnect, Goods customized and supplied based on designs, drawings, or other instructions of the Principal/Client, processing of the Goods by the Principal/Client.

09 Delivery

- 9.1 Unless otherwise agreed in writing, delivery takes place from the Qconnect warehouse in the Netherlands, currently in Maastricht-Airport.
- 9.2 Qconnect delivers the goods at the time, or immediately at the end of the delivery period indicated in the agreement. Agreed delivery periods are never considered as final deadlines unless expressly agreed otherwise. Exceeding the delivery time does not leave Qconnect liable to pay any compensation and never entitles the Principal/Client to not comply with or suspend the commitments resulting from the agreement.
- 9.3 If no time or period is agreed within which the delivery is to be carried out, delivery takes place within a reasonable time of after entering into the agreement, considering the nature or the Goods and the circumstances.
- 9.4 Should the Principal/Client continue to fail to take possession of the Goods after being summonsed, Qconnect may choose to either deliver at a time to be determined by Qconnect, or to declare the agreement or the part of the agreement not yet performed as terminated, without legal intervention and without any default notice being required, without this affecting Qconnect's right to compensation of loss, expenses, and interest.
- 9.5 Qconnect reserves the right to send partial deliveries or combined shipments for each individual order.
- 9.6 For prepacked goods sold by quantity, the average value of the goods supplied shall correspond to at least the nominal quantity according to the spot-check procedure. A measurement tolerance of +/- 3% is allowed for deliveries of prepacked goods with a quantity of 100 pieces or more.
- 9.7 An excess or short delivery of 10% shall be tolerated for items specifically designed to the customer's requirements.
- 9.8 All shipments travel at the full risk of the purchaser, regardless of the party instructed by the carrier.
- 9.9 Special instructions are only accepted if indicated in writing on the purchaser's order. Special instructions are subject to the approval of Qconnect.

10 Retention of ownership

- 10.1 Qonnect remains entitled to the ownership of the supplied Goods and the Goods to be supplied until its claims on the supplied Goods and the Goods to be supplied are paid in their entirety by the Principal/Client, including the claims due to the non-observance of one or more agreements. If the Principal/Client fails to observe its commitments, Qonnect is entitled to collect the Goods belonging to it at the expense of the Principal/Client from the location at which these are situated.
- 10.2 If Qonnect has any reasonable doubt as regards the payment capacity of the Principal/Client, Qonnect is entitled to suspend the supply and dispatch until the Principal/Client offers adequate guarantee of payment. This also applies to other Goods that are already supplied and paid for. If Goods are not paid for in full but have already been processed, Qonnect also retains the property right of the applicable Goods.
- 10.3 The Principal/Client is not entitled to pledge, to otherwise encumber, or to transfer ownership of the Goods that have not been paid for, other than within the framework of normal business activities. The Principal/Client must keep the Goods delivered under retention of ownership with the necessary care and as the recognizable property of Qonnect.
- 10.4 The Principal/Client must grant Qonnect access to the location where the supplied Goods are situated, specifically in cases in which Qonnect is entitled by law or pursuant to the agreement to recover the Goods.

11 Right of lien

- 11.1 Qonnect is entitled to retain the Principal's Goods made available to Qonnect under any form of title until the Principal has paid in full any claim that Qonnect has on the Principal, no matter what the source, unless the Principal has provided adequate surety to cover the claim. Qonnect also has the right of lien if the Principal enters a state of bankruptcy.
The Principal/Client is not entitled to any right of lien against Qonnect on the Goods supplied by Qonnect.

12 Payments

- 12.1 Payments should be transferred within 60 days of the date of invoice, without any setoff or debt settlement, to the bank account mentioned by Qonnect in its quotation or invoice, unless agreed otherwise in writing.
- 12.2 If the Principal/Client does not comply with one or more payment obligations, or does so late or not in full, it owes a monthly interest rate in line with market conditions or pro rata a part of a month on the total outstanding amount including VAT. The Principal/Client is also liable to pay the legal and extrajudicial collection fees, including the expenses of an attorney, of at least 15% of the principal amount including VAT, but at a minimum of € 150.00.
- 12.3 Qonnect is at all times entitled to demand the payment of the purchase price in advance or to insist on any form of surety to cover payment. If the Principal/Client fails to comply, Qonnect is entitled to suspend its services or to declare the agreement entirely or partially terminated.
- 12.4 The Principal/Client is not entitled to suspend its payment obligations, including if it is of the opinion that it has reported a just complaint regarding the Goods. The Principal/Client is also not entitled to the right of setoff of mutually reciprocal payments, but Qonnect is still entitled to set off anything it may owe the Principal/Client against that which the Principal/Client owes Qonnect, whether or not eligible, subject to conditions or during payment.
- 12.5 Payments made by the Principal/Client are first deducted from the expenses due, then deducted from the resulting interest, and, last of all, to cover the invoices that have been outstanding the longest, even if the Principal/Client states that the payment covers a more recent invoice.

13 Complaints/claims

- 13.1 The Principal/Client should inspect the goods upon delivery and upon receipt, to verify whether the delivery corresponds with the destination or its order. If this is not the case, the Principal/Client must notify Qconnect of this in writing within eight working days of receipt, stating the reasons. The Principal/Client cannot claim any defect if it did not report this to Qconnect in writing within eight working days. If a complaint is not made known in time, all claims against Qconnect expire.
- 13.2 The Principal/Client cannot claim an invisible defect in the product if it did not report this to Qconnect in writing within eight working days after the Principal/Client should reasonably have discovered the non-compliance, stating the reasons.
- 13.3 A claim or complaint does not cancel the Principal/Client's payment obligation, nor does it entitle the Principal/Client to a setoff.
- 13.4 Complaints cannot be accepted if the supplied Goods were sold completely or partially, if they were processed, or if the Principal/Client has started using the goods in any way.
- 13.5 If Qconnect believes that the complaints are valid, the Principal/Client must return the Goods immediately at Qconnect's first request. Qconnect decides whether to compensate for the loss, to repair the Goods, or to replace the Goods.

14 Copyright

- 14.1 Copying text and/or images from Qconnect's publications in any form at all is only permitted after written approval by Qconnect.

15 Termination

- 15.1 Notwithstanding that which is otherwise determined in these Sales Conditions, Qconnect is entitled to terminate the agreement without legal intervention and without default notice and with immediate effect, entirely or partially, at such time that the Principal fails to comply, whether not owing to force majeure, with one or more provisions of this agreement, enters a state of bankruptcy, is granted or requests provisional suspension of payment, its company is entirely or partially liquidated or seized, is placed under administration, or loses the control over its financial assets or parts thereof, without this affecting any other legal entitlement of Qconnect. In that case, Qconnect is entitled to compensation of all financial loss, such as damage, lost profit, and incurred expenses.
- 15.2 As a result of the termination, all of Qconnect's claims on the Principal, including as far as these claims result from other agreements between the parties, are immediately eligible.

16 Liability

- 16.1 Except for the liability for damage caused by intent or gross negligence on the part of Qconnect, Qconnect excludes all liability vis-à-vis the Principal/Client for all loss, including immediate loss, consequential loss, trading loss, loss of profits, loss due to delay, loss as a result of personal injury accident, loss resulting from claims of third parties vis-à-vis the Principal/contractor, etc.
- 16.2 In all cases where Qconnect is held liable for payment of compensation, this is never higher than either the net invoice value of the Goods supplied for which or in which context the loss is caused, or if the loss was covered by Qconnect's liability insurance company, the amount that is actually paid out by the insurer, to be decided by Qconnect. Each right of the Principal/contractor to claim compensation from Qconnect expires if it does not notify Qconnect in writing within a month of establishing the cause of the loss and if Qconnect has not been brought before the court within a year of establishing the cause of loss.
- 16.3 Statements by or on behalf of Qconnect regarding the quality, composition, treatment, application possibilities, properties, etc. of the Goods, whether or not via images, all in the broadest sense of the word, are drawn up by Qconnect to the best of its ability yet are only approximations and estimations and cannot be considered as any guarantee, unless expressly agreed otherwise in writing.

- 16.4 The Principal/Client indemnifies Qconnect, its employees, and its assistants appointed for the execution of the agreement against any claims by external parties, including claims based on product liability, concerning the execution by Qconnect of the agreement, irrespective of the cause, as well as against the expenses resulting from this for Qconnect.
- 16.5 If the Principal/Client is established outside the Netherlands and is responsible for the transport of the Goods, the Principal/Client is responsible for the actual export of the Goods out of the Netherlands on Qconnect's behalf. The Principal/Client indemnifies Qconnect against all claims by internal revenue services and/or external parties, should the Principal/Client act in breach of the above.
- 16.6 Qconnect's exclusion of liability is also in effect if Qconnect makes use of its right to suspend or its right to terminate of the agreement, whereas it is irrevocably established later than such a right has been exercised incorrectly.

17 Return of Goods

- 17.1 Goods ordered but not yet supplied and ordered Goods that were supplied:
- > Non-standard products and products that cannot be supplied ex-stock cannot be cancelled or returned.
 - > Goods supplied ex-stock as well as current products can be returned, subject to consultation, within ten days of the delivery date.
- 17.2 A return is only accepted if all of the following conditions have been met:
- > A completed returns form has been submitted to Qconnect.
 - > Qconnect has accepted the returns form.
 - > The Principal/Client agrees in writing to the return conditions as confirmed by Qconnect.
 - > The Principal/Client attaches the return document received from Qconnect to the return shipment.
- 17.3 Return shipments must be sent carriage paid with the prior consent of Qconnect, unless expressly agreed otherwise in writing. Returns must state the invoice number, the invoice date, and the return number.
- 17.4 Only Goods returned in an undamaged state and in packaging that does not include details of the Principal/Client such as advertising, company name, price, and other notes can be accepted.
- 17.5 In the event of failure to comply with the return conditions, Qconnect will charge € 50.00 per returned item code.

18 Cancellation

- 18.1 The Principal/Client waives all rights of termination of the agreement in accordance with Book 6 Article 265 of the Dutch Civil Code (Burgerlijk Wetboek) or other statutory provisions, unless legally enforceable provisions dictate otherwise. This applies subject to the right to terminate the agreement by virtue of this article.
- 18.2 For the purposes of these Sales Conditions, termination is understood to mean: the termination of the agreement before the commencement of the execution of the agreement by one of the parties.
- 18.3 For the purposes of these Sales Conditions, cancellation is understood to mean: the termination of the agreement after commencement of the execution of the agreement by one of the parties.
- 18.4 If the Principal/Client terminates or cancels the agreement, it must pay Qconnect a compensation fee to be determined by Qconnect. The Principal/Client is obliged to compensate Qconnect for all expenses and losses as well as the loss in profit. Qconnect is entitled to fix the expenses, loss, and lost profit and – depending on its choice and depending on the activities already performed or supplied – to charge the Principal/Client 20% to 100% of the agreed price.

19 Applicable law

- 19.1 Only Dutch law is applicable to all orders by and agreements with Qonnect.
- 19.2 The effect of any international treaty on the purchase of tangible goods, whose effect may be ruled out between the parties, is not applicable and is hereby expressly excluded. More particularly, the applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.

20 Disputes

- 20.1 All disputes based on or following assignments issued and/or orders placed by Qonnect and/or agreements entered into with Qonnect are in first instance exclusively submitted to the district court in Maastricht.
- 20.2 With regard to disputes resulting from agreements signed with a Principal/Client established outside the Netherlands, Qonnect is entitled to act in accordance with the provisions under paragraph 1 of this article or, depending on its choice, submit the disputes to the jurisdiction of the court in the country or state in which the Principal/Client is established.

The invalidity or nullification of any provision of these conditions or of the agreement on which these conditions apply does not affect the other provisions.

The Principal/Client and Qonnect must replace the provisions that are invalid or overruled by valid provisions, and these new and valid provisions must cover as far as possible the same range as the invalid or the overruled provisions.

21 Demonstration equipment

- 21.1 In certain circumstances, Qonnect can provide demonstration or loan equipment. This equipment is normally a new product from the warehouse. If such equipment is returned to Qonnect without the complete original packaging and/or is damaged in any way whatsoever, Qonnect reserves the right to return the product to the Client and considers the product as 'sold', or the equipment will be repaired at the expense of the user. The costs involved in sending and returning the product are at the expense of the Principal/Client.