

## OUR TERMS AND CONDITIONS FOR THE SUPPLY AND USE OF GOODS AND SERVICES, QUOTATION AND SALE

Date of current version: 6<sup>th</sup> February 2023

All terms are written using the English language.

### Definitions

“**Customer**” or “**Purchaser**” shall mean an individual or company who issued a Purchase Order to Quensus or otherwise placed an order with Quensus.

“**Products**”, “**goods**”, “**services**” or “**digital content**” shall mean as described within the Order and/or Quotation.

“**Seller**”, “**us**” and “**Quensus**” shall mean Quensus Limited (including its successors and assignees) of Strelley Hall, Main Street, Nottingham, England, NG8 6PE (company number 0953078).

“**Platform**” shall mean the software and application provided by Quensus to enable the Customer to use the product.

“**Subscription Scope**” shall mean the Platform parameters of usage and limitations of the same as stated within the Order and/or quotation.

### 1. These terms

1.1. **What these terms cover.** These are the Terms and Conditions on which we supply products to you, whether these are goods, services or digital content. These Terms and Conditions apply to the contract between the Seller and the Purchaser for the sale and purchase of the Goods to the exclusion of any other terms that the Purchaser seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1.2. **Why you should read them.** Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms please contact us to discuss.

1.3. The Purchaser is agreeing fully to the Seller’s trading Terms and Conditions by commissioning our services.

### 2. Information about us and how to contact us

2.1. **Who we are.** We are Quensus Limited a company registered in England and Wales. Our company registration number is 09530781 and our registered office is at Strelley Hall, Main Street, Nottingham, England, NG8 6PE

2.2. **How to contact us.** You can contact us by telephoning our customer service team at 0115 906 1297 or by writing to us at support@quensus.com or at our postal address, Quensus support, Strelley Hall, Nottingham NG8 6PE

2.3. **How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.

2.4. **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

### 3. Our contract with you

3.1. In order to purchase our products and services you will need to create an account with us.

3.2. **How we will accept your order.** Our acceptance of your order will take place when we email you to accept it, at which point a contract will come into existence between you and us.

3.3. **If we cannot accept your order.** If we are unable to accept your order, we will inform you of this in writing and will not charge you for the product. This might be because the product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because a credit reference we have obtained for you does not meet our minimum requirements, because we have identified an error in the price or description of the product or because we are unable to meet a delivery deadline you have specified.

3.4. **Your order number.** We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order.

#### 4. Our products

4.1. **Products may vary slightly from their pictures.** The images of the products on our website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Your product may vary slightly from those images.

4.2. **Product packaging may vary.** The packaging of the product may vary from that shown in images on our website.

4.3. **Internet Connection.** You understand that our goods utilise your broadband facilities and a source of power from a DC supply. Should your broadband be switched off, not working or does not meet the required minimum speed or an appropriate source of power is not supplied we will not be able to provide the services. We will not be liable to you for any losses due to your acts or omissions or those of any third parties.

4.4. **Import/Export licences.** It is your responsibility to obtain any necessary licences and permits necessary to purchase the products in your country or location. You will be liable for any customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the importation and delivery of the products.

4.5. **The purpose of our product is to reduce or manage the risk of unwanted water loss so far as this can be done using our goods.** However, we do not guarantee that our products cannot be removed, tampered with or made to stop working by you or by any third party. If this happens we are not liable for any losses you may suffer directly or indirectly.

4.6. We do not guarantee to you that:

4.6.1. Particular losses will be prevented using our goods; or

4.6.2. That our goods will work continuously and without errors, in particular where interruptions or errors are due to something beyond our reasonable control.

#### 5. Your rights to make changes

5.1. If you wish to make a change to the product you have ordered please contact us. We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the product, the timing of supply or anything else which would be necessary as a result of your requested change and

ask you to confirm whether you wish to go ahead with the change. If we cannot make the change or the consequences of making the change are unacceptable to you, you may want to end the contract (see clause 10).

## 6. Our rights to make changes

6.1. **Minor changes to the products.** We may change the product:

- 6.1.1. to reflect changes in relevant laws and regulatory requirements; and
- 6.1.2. to implement minor technical adjustments and improvements, for example to address a security threat. These changes will not affect your use of the product.

6.2. **More significant changes to the products and these terms.** In addition, we may need to make more significant changes to the products and these terms but if we do so we will notify you and you may then contact us to end the contract before the changes take effect and receive a refund for any products paid for but not received.

6.3. **Updates to digital content.** We may update or require you to update digital content, provided that the digital content shall always match the description of it that we provided to you before you bought it.

## 7. Providing the products and Services

### 7.1. Minimum Subscription Period

- 7.1.1. Unless otherwise agreed in writing, the Customer must purchase all goods together with a subscription for the corresponding Services (“Subscription”) for a minimum subscription period of 12 months, starting at the time of installation of the goods, cf. Clause 8.8.
- 7.1.2. Upon expiry of the Minimum Subscription Period, the Subscription for the Service will automatically be renewed for successive one (1) year periods thereafter (each an “Annual Subscription”) until and unless either party provides the other party with written notice at least one (1) month prior to the end of the Annual Subscription or Minimum Subscription Period (“Termination of Service”). Quensus undertakes to notify the Customer of forthcoming automatic Annual Subscription renewals up to one (1) month prior to expiry.
- 7.1.3. For the avoidance of doubt, the renewal of the Subscription only concerns the Services and does not include an extension of the Product Warranty, cf. Clause 16.1.

7.2. **Delivery costs.** The costs of delivery will be covered by you and will be as displayed to within the quotation.

7.3. When we will provide the products.

- 7.3.1. **In respect to products which are goods.** If the products are goods we will deliver them to you as soon as reasonably possible.
- 7.3.2. **In respect to the ongoing services and digital content provided by us.** We will supply the services, goods and digital content to you until the subscription expires, or you end the contract as described in clause 8 or we end the contract by written notice to you as described in clause 12.

7.4. **We are not liable for delays outside our control.** If our supply of the products is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take reasonable steps to minimise the effect of the delay. Provided we do this we will not be liable for delays

caused by the event, but if there is a risk of substantial delay you may contact us to end the contract and receive a refund for any products you have paid for but not received.

In any event we will not be liable for any damages and/or losses arising out of the late deliveries.

**7.5. If delivery is unsuccessful.** If no one is able to sign and take delivery of the products, we will leave you a note informing you of how to rearrange delivery or collect the products from a local depot.

**7.6. If you do not re-arrange delivery.** If you do not collect the products from us as arranged or if, after a failed delivery to you, you do not re-arrange delivery or collect them from a delivery depot we will contact you for further instructions and may charge you for storage costs and any further delivery costs.

If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery or collection we may end the contract and clause 12.2 will apply.

**7.7. Your legal rights if we deliver goods late.** You have legal rights if we deliver any goods late. If we miss the delivery deadline for any goods then you may treat the contract as at an end straight away if any of the following apply:

7.7.1. we have refused to deliver the goods;

7.7.2. you told us before we accepted your order that delivery within the delivery deadline was essential and we failed to deliver the goods due to our failure (rather than a failure of our sub-contractors or other agents), subject to clause 7.4.

**7.8. Setting a new deadline for delivery.** If you do not wish to treat the contract as at an end straight away, or do not have the right to do so under *clause 7.7*, you can give us a new deadline for delivery, which must be reasonable, and you can treat the contract as at an end if we do not meet the new deadline.

**7.9. Ending the contract for late delivery.** If you do choose to treat the contract as at an end for late delivery under *clause 7.7* or *clause 7.8*, you can cancel your order for any of the goods that have not been delivered. If you wish, you can reject or cancel the order for some of those goods (not all of them), unless splitting them up would significantly reduce their value. After that we will refund any sums you have paid to us for the cancelled goods and their delivery. If the goods have been delivered to you, you must either return them in person to where you bought them, post them back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage or collection. Please call customer services on 0115 906 1297 or email us at [support@quensus.com](mailto:support@quensus.com) for a return label or to arrange collection

**7.10. When you become liable for the goods.** A product which is goods will be your responsibility from the time we deliver the product to the address you gave us, or you collect it from us.

**7.11. When you own goods.** The title of the goods shall pass to you (you own the goods) once we have received payment in full or on the delivery of the goods to the address specified within the Purchase Order and/or Quotation, whichever is the latest.

**7.12. What will happen if you do not give required information to us.** We may need certain information from you so that we can supply the products to you, for example:

7.12.1. The age, size and class of your property;

7.12.2. Hours of use of property (if not residential);

7.12.3. Average water bill for the property; or

7.12.4. Relevant information relating to the incoming mains water supply pipes.

7.12.5. If we require certain information, this will have been stated in the description of the products on our website. We will contact you to ask for this information. If you do not give us this information within a reasonable time of us asking for it, or if you give us incomplete or incorrect information, we may either end the contract (and clause 12.2 will apply) or make an additional charge of a reasonable sum to compensate us for any extra work that is required as a result. We will not be liable for supplying the products late or not supplying any part of them if this is caused by you not giving us the information we need within a reasonable time of us asking for it.

7.13. **Reasons we may suspend the supply of products to you.** We may have to suspend the supply of a product to:

7.13.1. deal with technical problems or make minor technical changes;

7.13.2. update the product to reflect changes in relevant laws and regulatory requirements;

7.13.3. make changes to the product as requested by you or notified by us to you (see clause 6).

7.14. **Your rights if we suspend the supply of products.** We will contact you in advance to tell you we will be suspending supply of the product, unless the problem is urgent or an emergency. If we have to suspend the product for longer than 30 days we will adjust the price so that you do not pay for products while they are suspended. You may contact us to end the contract for a product if we suspend it, or tell you we are going to suspend it, in each case for a period of more than 30 days and we will refund any sums you have paid in advance for the product in respect of the period after you end the contract.

7.15. **We may also suspend supply of the products if you do not pay.** If you do not pay us for the products when you are supposed to (see clause 14.4) and you still do not make payment within 7 days of us reminding you that payment is due, we may suspend supply of the products until you have paid us the outstanding amounts. We will contact you to tell you we are suspending supply of the products. We will not suspend the products where you dispute the unpaid invoice (see clause 14.9). We will not charge you for the products during the period for which they are suspended. As well as suspending the products we can also charge you interest on your overdue payments (see clause 14.5).

## 8. Installation of products

8.1. The goods you purchase from us are likely to require installation to water pipes and connection to an electricity supply in your property and where this is required it will be detailed in the description of the product on our website. We do not carry out the installation of the products and it is your responsibility to instruct a suitably qualified plumber and electrician to install the goods.

8.2. We can recommend suitable plumbers and electricians only if you ask us to manage the installation carried out by the plumbers and electricians on your behalf. If you ask us to instruct and manage a plumber or electrician on your behalf, such instruction shall be treated as a variation under this agreement after a fee has been agreed between the parties. No variation shall vitiate this agreement.

8.3 You acknowledge that we will be acting as your agent in this respect and you alone will be liable for the fees incurred in instructing the plumber or electrician to carry out works for you and any losses related to the same.

- 8.4 You further agree that we shall only be responsible for inspecting the works of the plumber or electrician and under no circumstances we shall accept responsibility or liability for any supervision or other obligations.
- 8.5 It is your obligation under this contract to arrange access for our commissioners at a time agreed by the parties. No liability for the product will be accepted by us until we have a reasonable opportunity to inspect and approve the installation.
- 8.6 Installation of the goods must be carried out in accordance with our manual for installation which can be found on our website otherwise we will not be liable for any defects in the products.
- 8.7 Subject to clause 15.2, we will not be liable or held liable for any defects in the goods or damage caused to your property as a result of an act or omission by an electrician or plumber instructed by you or by us on your behalf to install the goods.
- 8.8 You acknowledge that one of the functions of the goods is to turn off your water supply when water consumption exceeds a level set by you.
- 8.9 It is your responsibility to ensure you obtain all consents required prior to the installation of the goods from any owners, landlords, utility providers and/or tenants relating to the property where installation is taking place or any other relevant person whose consent is required for both the installation, any water supply being turned off in accordance with the services provided by us and all services provided by us as requested by you.
- 8.10 You will indemnify and hold us harmless against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by us arising out of or in connection with a failure by you to obtain any and all consents needed to install the goods at your property or to use the product in a manner instructed by us.
- 8.11 Any subscription associated with the goods will begin as soon as the goods are connected to the Internet.
- 8.12 If we agree to carry out the installation, it should be treated as a variation under this agreement after a fee has been agreed between the parties, and all terms and conditions shall apply to the installation services, including all terms within this clause 8. No variation shall vitiate this agreement.
- 8.13 It is your responsibility to arrange access for us to carry out the installation.
- 8.14 In any way we shall not be liable for any losses arising out of any delays in carrying out the installation.

## 9.

### A. Intellectual property rights

- 9.1. “Intellectual Property” or “IP” includes any and all inventions whether or not patentable, utility models, trademarks, algorithms, component designs or manufacturing processes and any improvements or enhancements thereto, copyrights and moral rights, database rights, trade secrets and know-how, in each case whether registered or unregistered, and also including identified technical and non-technical or business-related information such as specifications, computer programs, drawings or blueprints.
- 9.2. All IP is and will remain the exclusive property of the party owning it. Neither party will be entitled to any right or license to any of the other party’s IP except as detailed in clause 9B below.

9.3. For the avoidance of doubt, any machine programmes, firmware, source code, software and any associated data used in the functioning of the goods remains the sole Intellectual Property of the Seller.

#### **B. Software Licence**

9.4 Subject to the terms and conditions of this agreement, including but not limited to payment terms, Quensus grant the customer a non-exclusive, personal, non-transferable licence to use the software during the subscription period to internally use the Platform in respect of the specified Project and/or Location after the delivery and installation of the goods subject to the following restrictions.

The Customer warrants to Quensus that the Customer will not:

- (a) copy the Platform and any content, design or any other intellectual property;
- (b) sell, sublicense, assign or transfer in any way, whether for commercial use/gain or otherwise, the Platform and any content, design or any other intellectual to any person, company, partnership or other legal entity not a party to this contract;
- (c) interfere with the Platform in any way;
- (d) use the Platform and any content, design or any other intellectual property to develop any product or service that is the same as (or substantially similar to), or otherwise competitive with, the Platform, Services provided by Quensus or any other intellectual property.

9.5 In order to access the Platform, you may need to set up a Platform account. The Customer shall be solely liable for maintaining the security and confidentiality of the account.

### **10. Your rights to end the contract**

10.1. **You can always end your contract with us.** Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing and when you decide to end the contract:

10.1.1. If what you have bought is faulty or misdescribed you may have a legal right to end the contract (or to get the product repaired or replaced or a service re-performed or to get some or all of your money back) provided such fault was not caused by you or an electrician or plumber instructed by you, see *clause 13*;

10.1.2. If you want to end the contract because of something we have done or have told you we are going to do, see *clause 10.2*;

10.1.3. If you have just changed your mind about the product, see *clause 10.3*. You may be able to get a refund if you are within the cooling-off period, but this may be subject to deductions and you will have to pay the costs of return of any goods;

10.1.4. In all other cases (if we are not at fault and there is no right to change your mind), see *clause 10.6*.

10.2. **Ending the contract because of something we have done or are going to do.** If you are ending a contract for a reason set out below within this clause the contract will end immediately and we will refund you in full for any products which have not been provided, subject to any delivery charges and other costs or losses incurred.

The reasons are:

10.2.1. we have told you about an upcoming change to the product or these terms which you do not agree to (see *clause 6.2*);

10.2.2. we have told you about an error in the price or description of the product you have ordered and you do not wish to proceed;

10.2.3. there is a risk that supply of the products may be significantly delayed because of events outside our control;

10.2.4. we have suspended supply of the products for technical reasons, or notify you we are going to suspend them for technical reasons, in each case for a period of more than 30 days; or

10.2.5. you have a legal right to end the contract because of our repudiatory breach.

### 10.3. Exercising your right to change your mind under a Consumer Contracts Regulations 2013.

10.3.1 If you are a consumer, you have a legal right to change your mind within 14 days and receive a refund for most products bought online. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these terms.

10.3.2. **When you don't have the right to change your mind.** You do not have a right to change your mind in respect of:

10.4.1. products once installation in the property has started;

10.4.2. digital products after you have started to download or stream these;

10.4.3. services, once these have been completed, even if the cancellation period is still running; and

10.4.4. any products which become mixed inseparably with other items after their delivery;

10.4.5. if you are a business.

10.3.3. **How long do I have to change my mind?** You have 14 days after the day delivery of the goods is completed. However, if you cancel after we have started the services, you must pay us for the services provided up until the time you tell us that you have changed your mind.

10.4. **Ending the contract where we are not at fault and there is no right to change your mind.** Even if we are not at fault and you do not have a right to change your mind (see clause 10.1 and 10.3), you can still end the contract only if you are a consumer. If you want to end a contract where we are not at fault and you have not changed your mind, just contact us to let us know. The contract will end immediately and we will refund any sums paid by you for products not provided but we may deduct from that refund the costs of any products or services provided prior to the end of the contract, any delivery charges and other incurred costs and losses.

## 11. How to end the contract with us (including if you have changed your mind)

11.1. **Tell us you want to end the contract.** If you have the right to end the contract under these terms, please let us know by doing one of the following:

11.1.1. **Phone or email.** Call customer services on 0115 906 1297 or email us at support@quensus.com. Please provide your name, home address, details of the order and, where available, your phone number and email address.



- 11.1.2. **By post.** Print off the form shown at <https://quensus.com/returns/> and post it to us at the address on the form. Or simply write to us at that address, including details of what you bought, when you ordered or received it and your name and address.
- 11.2. **Returning products after ending the contract.** If you end the contract for any reason after products have been dispatched to you or you have received them, you must return them to us. You must either return the goods in person to where you bought them, post them back to us at Quensus returns, Strelley Hall, Nottingham NG8 6PE or (if they are not suitable for posting) allow us to collect them from you. We shall charge you for any collection costs. Please call customer services on 0115 906 1297 or email us at support@quensus.com for a return label or to arrange collection. If you are exercising your right to change your mind under clause 10.3 you must send off the goods within 14 days of telling us you wish to end the contract.
- 11.3. When we will pay the costs of return. We will pay the costs of return:
- 11.3.1. if the products are faulty or misdescribed;
- 11.3.2. if you are ending the contract because we have told you of an upcoming change to the product or these terms.
- 11.3.3. In all other circumstances (including where you are exercising your right to change your mind) you must pay the costs of return or collection.
- 11.4. **What we charge for collection.** If you are liable for the costs of return and we are collecting the product from you, we will charge you the direct cost to us of collection. The costs of collection will be the same as our charges for standard delivery.
- 11.5. **How we will refund you.** We will refund you the price you paid for the products including delivery costs if we are covering the costs under clause 11.3, by the method you used for payment. However, we may make deductions from the price, as described below.
- 11.6. **Deductions from refunds if you are exercising your right to change your mind.** If you are exercising your right to change your mind:
- 11.6.1. We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted in a shop. If we refund you the price paid before we are able to inspect the goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount within 14 days of us notifying you of the same.
- 11.6.2. The maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a product within 3-5 days at one cost but you choose to have the product delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option.
- 11.6.3. Where the product is a service, we may deduct from any refund an amount for the supply of the service for the period for which it was supplied, ending with the time when you told us you had changed your mind. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the contract.

**11.7. When your refund will be made.** We will make any refunds due to you as soon as possible. If you are exercising your right to change your mind then:

11.7.1. If the products are goods, your refund will be made within 14 days from the day on which we receive the product back from you. For information about how to return a product to us, see clause 11.2.

## 12. Our rights to end the contract

**12.1. We may end the contract if you break it.** We may end the contract for a product at any time by writing to you if:

12.1.1. you do not make payment to us when it is due and you still do not make payment within 14 days of us reminding you that payment is due;

12.1.2. you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products, for example: The age, size and class of your property; Hours of use of the property (if not residential); Average water bill for the property; Relevant information relating to the incoming mains water supply pipes; or any other necessary information we ask for.

12.1.3. you do not, within a reasonable time, allow us to deliver the products to you or collect them from us;

12.1.4. if we reasonably believe you have breached these terms including the Acceptable Use Policy;

12.1.5. if we reasonably believe that you acted or are acting in breach of any applicable law;

12.1.6. if you fail to cooperate with our investigations of suspected breaches or technical faults;

12.1.7. if we reasonably believe that your account has been accessed by an unauthorised third party or its security has been compromised in any other manner;

12.1.8. if we consider the suspension to be reasonably necessary to protect our network, our customers, our commercial interests or any other essential interest;

12.1.9. if you fail to validate your email within 3 days of registration.

**12.2. You must compensate us if you break the contract.** If we end the contract in the situations set out in clause 12.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

**12.3. We may withdraw the product.** We may write to you to let you know that we are going to stop providing the product. We will let you know at least 14 days in advance of our stopping the supply of the product and will refund any sums you have paid in advance for products which will not be provided.

## 13. If there is a problem with the product

**13.1. How to tell us about problems.** If you have any questions or complaints about the product, please contact us. You can telephone our customer service team at 0115 906 1297 or write to us at [support@quensus.com](mailto:support@quensus.com) or Quensus support, Strelley Hall, Nottingham NG8 6PE.

13.2. **Your obligation to return rejected products.** If the products are faulty and you wish to exercise your legal rights to reject products you must either return them in person to where you bought them, post them back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage or collection. Please call customer services on 0115 906 1297 or email us at [support@quensus.com](mailto:support@quensus.com) for a return label or to arrange collection.

## 14. Price and payment

14.1. **Where to find the price for the product.** The price of the product (excluding VAT) will be the price indicated on the Quote pages when you placed your order. We use our best efforts to ensure that the price of the product advised to you is correct. However please see clause 14.3 for what happens if we discover an error in the price of the product you order.

14.2. **We will pass on changes in the rate of VAT.** If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect.

14.3. **What happens if we got the price wrong.** It is always possible that, despite our best efforts, some of the products we sell may be incorrectly priced. We will normally check prices before accepting your order so that, where the product's correct price at your order date is less than our stated price at your order date, we will charge the lower amount. If the product's correct price at your order date is higher than the price stated to you, we will contact you for your instructions before we accept your order. If we accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the contract, refund you any sums you have paid and require the return of any goods provided to you.

14.4. **When you must pay and how you must pay.** Payment must be made via BACS, PayPal or cheque. When you must pay depends on what product you are buying:

14.4.1. For **goods** (where the total gross value is less than £50,000), non-account buyers must pay for the products (and, where applicable, the fee for the Minimum Subscription Period) in one instalment before we dispatch them for delivery. Account buyer payment is due net within 30 days following the date of order unless otherwise agreed in writing. The payment will not be subject to the seller fulfilling any other obligation, including but not limited to a timely delivery of the goods.

14.4.2. For **goods** (where the total gross value is equal to or more than £50,000):

14.4.2.1. you must be an account buyer, where appropriate trade reference and credit checks have been carried out and we have agreed account status,

14.4.2.2. we will require staged payments due on completion of scheduled tasks, to be agreed in writing,

14.4.2.3. we will require a preliminary payment of 30% due within 30 days of a Quensus invoice following PO receipt. This payment must be received before any goods are dispatched.

14.4.3. For **services and digital content**, we will invoice you annually in advance. You must pay each invoice within 30 calendar days after the date of the invoice. For each successive Annual Subscription Period according to Clause 7.1 above, you shall be invoiced for the corresponding

Subscription price in advance and in one instalment for the entire new Annual Subscription Period, latest 30 days prior to the expiry of the previous Annual Subscription Period or the Minimum Subscription Period.

14.4.4. For any variations under clause 8 or otherwise under this contract, we shall invoice you before or after the instructed works or services are completed, and each invoice shall be paid within 30 days of the issue date.

14.5. **We can charge interest if you pay late.** If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 8% a year above the base lending rate of Barclay's Bank from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.

14.6. Failure to pay by the due date shall entitle the Seller to suspend services and/or delivery of all current and future orders.

14.7. Where the Seller has good reason to believe the Purchaser may default on payment, the Seller reserves the right at any time and in its absolute discretion to demand immediate payment of any account and to take legal action to recover the debt and costs.

14.8. The Seller reserves the right in its absolute discretion to refuse to grant credit.

14.9. **What to do if you think an invoice is wrong.** If you think an invoice is wrong please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved we will charge you interest on correctly invoiced sums from the original due date.

14.10. **Changes to our prices.** We may increase our prices to cover an increase in the cost of providing our services. We will tell you in writing of the increase amount and when it will take effect. If you do not agree with the increase, you have the right to terminate this agreement in accordance with clause 10.

## 15. Our responsibility for loss or damage suffered by you

15.1. **We are liable to you for foreseeable loss and damage caused by us.** If we fail to comply with these terms, we are liable for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not liable for any loss or damage that could not have been foreseen by a reasonable person of our profession. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process. However, we shall not be liable for any problems or defects with the hardware, platform, goods or services, arising from any of the following: (A) natural disasters, accidents, or other factors beyond the reasonable control of QUENSUS; (B) alteration, replacement, repair or servicing of the goods or platform by third party not authorised by QUENSUS in writing; (C) unusual physical, mechanical, or electrical stress; (E) improper handling or installation or misuse of the platform or goods, or use other than as advised by Quensus.

Any services provided by QUENSUS in connection with the foregoing shall be charged at QUENSUS's then-current rates.

15.2. **We do not exclude or limit in any way our liability to you where it would be unlawful to do so.** This includes liability for death or personal injury caused by our negligence or the negligence of our

employees, agents or subSellers; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the products including the right to receive products which are, if you are a consumer: as described and match information we provided to you and any sample or model seen or examined by you; of satisfactory quality; fit for any particular purpose made known to us; supplied with reasonable skill and care; and for defective products under the Consumer Protection Act 1987.

15.3. If you are a business, notwithstanding any other clause of this contract or any other agreement, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and section 4 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the contract.

15.4. If defective digital content which we have supplied damages a device or digital content belonging to you and this is caused by our failure to use reasonable care and skill we will either repair the damage or pay you compensation. However, we will not be liable for damage which you could have avoided by following our advice to apply an update offered to you free of charge or for damage which was caused by you failing to correctly follow installation instructions or to have in place the minimum system requirements advised by us.

15.5. **We are not liable for business losses.** If you use the products for any commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity arising out of a breach of contract or tort law, including but not limited to negligence.

15.6. Subject to clause 15.2 our total liability in any year of this agreement, whether in breach of contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this agreement, shall in all circumstances be limited to the total amount actually received by us from you for the products or services in that year.

15.7 Notwithstanding any other clause within this agreement, it is acknowledged and agreed that Quensus do not guarantee the prevention of water leakages or flooding, and nothing in this agreement shall be construed as undertaking or a guarantee to prevent water leakages, flooding, or related damage.

## 16. Warranties

### 16.1. Product Warranty

16.1.1. Quensus warrants for a period of 1 (one) year (“Product Warranty”) from delivery date that the Products conform to the specifications in the Product datasheets on the date of the Order Confirmation (“Specifications”). If the parties have agreed on a Minimum Subscription Period of 2 or more years, the Product Warranty shall be 2 (two) years.

16.1.2. The Customer shall examine the Products upon delivery. If any defects are found, the Customer shall notify Quensus thereof in writing within 3 working days, providing reasonable details of the nature and the circumstances of the defect.

16.1.3. If any Products do not conform to the Specifications and the Customer notifies Quensus thereof during the Product Warranty period stated above, Quensus shall within reasonable time remedy the defects. Quensus may alternatively choose to make new and substituting delivery of the defective Products.

16.1.4. If Quensus chooses to repair the defective Products under the Product Warranty, Quensus shall advise the Customer of the applicable return procedures and shall cover the reasonable transportation costs for the return of any defective Products from the Customer's address (as stated in the Purchase Order) to the place where the repair shall take place. Under no circumstances whatsoever shall Quensus be liable for any costs relating to return of Products from the End Users.

16.1.5. For the avoidance of doubt, the Product Warranty does not apply in the following cases:

16.1.5.1. Wrongful or improper use by Customer: Defects caused by wrongful or improper use, lack of or wrongful maintenance or any repair undertaken without the prior consent of Quensus, of the Products by the Customer or the End Users. Wrongful or improper use means use that deviates from the user instructions provided to the Customer by Quensus from time to time, either through Product datasheets or other written or oral communication, including but not limited to excessive use beyond default use or by applying settings other than defined in the relevant documentation provided by Quensus (relating to battery lifetime, radio range or the like) or by not complying with any other routines, instructions, procedures and guidelines for the utilization of the Products; or

16.1.5.2. Change of technology risk: Necessary adjustments to or replacements of the Products due to regulatory changes, new technology standards and protocols, or other circumstances outside the control of Quensus which may impair the usability of the Products; or

16.1.5.3. Development risk: If the product could not have been considered defective based on appropriate testing according to the scientific and technical knowledge available at the time when the product was put into circulation; or

16.1.5.4. Pre-RTM-Products: In the event Quensus makes available certain Products to the Customer before their official Release to Market ("Pre-RTM-Products"), Customer expressly acknowledges and agrees that Pre-RTM-Products are not yet fully tested, may not perform as expected, for example generate erroneous results, and may present flaws. To the extent such Pre-RTM-Products are marked with the CE marking, Quensus solely warrants that the Products conform with health, safety, and environmental protection standards for products sold within the European Economic Area (EEA) and UK. Except for the foregoing, any warranty for Pre-RTM-Products is excluded to the largest extent permitted under applicable law, Customer expressly agrees that Pre-RTM-Products are made available on an "as is" basis and that Customer shall use the Pre-RTM-Products at his own risk.

16.2. The rights and remedies set out in Clause 16.1 represent the sole remedies available to the Customer in the event of defects or delays to the Products and/or the Services.

16.3. The Seller warrants that the Goods shall conform to the drawings and specifications or descriptions furnished by the Purchaser and accepted by the Seller, will be of satisfactory quality and free from material defects in material and workmanship.

16.4. As part of larger projects which involve 3rd parties commissioned directly by the client (including but not limited to plumbers, electricians, IT technicians and installers), the Seller will not be held liable in any way for services not carried out/managed directly or indirectly by the Seller.

**17. Issues Relating to conformity**

- 17.1. Any issues of conformity shall be lodged by the Purchaser in writing within 30 days of delivery of the Goods
- 17.2. Should the Purchaser claim that the Goods do not comply with the warranty set out in Clause 16.1, the Purchaser shall on the request of the Seller return the Goods to the Seller for inspection.
- 17.3. The arrangement and payment of transport for Goods returned in terms of Clause 17.2 in the first instance shall be as agreed between the Purchaser and Seller. If the Goods are found not to comply with the warranty, the costs of transport shall be borne by the Seller. If the Goods are found to comply with the warranty, the costs of transport shall be borne by the Purchaser.
- 17.4. Should the parties arrive at contradictory views as to the compliance of the Goods with the warranty set out in Clause 16.1 the Seller and the Purchaser shall meet at the Seller's premises within 10 days in order to reach a technical resolution or agreement. In the event of failure to reach agreement at such meeting, the provisions of Clause 20 shall apply.
- 17.5. If the Goods do not comply with the warranty set out in Clause 16.1, then the Seller at its option shall replace or modify the Goods, or refund the purchase price of the Goods. Except as provided in this Clause 17.5 the seller shall have no liability whatsoever to the Purchaser in respect of the Goods failure to comply with the warranty set out in Clause 16.1.
- 17.6. Any and all repair or modification of Goods under this Clause 17 will be undertaken and arranged by the Seller only. The Seller will only absorb the cost of such repair or modification if such repair or modification has been undertaken by the Seller or an appointed party on behalf of the Seller.

**18. Free Issue Material**

- 18.1. The Seller accepts no responsibility of any kind for any materials sent to the Seller by or on behalf of the Purchaser and risk in such materials shall remain with the Purchaser.
- 18.2. The Seller furthermore does not warrant the suitability or fitness for purpose of materials so provided by the Purchaser.

**19. Latent Defects Liability**

- 19.1. If during the course of manufacture or thereafter, castings, forgings or other raw material fail for any reason not directly attributable to the Seller's manufacturing process then the Purchaser will be liable for all costs and expenses incurred by the Seller as a result of such failure.

**20. Dispute Resolution**

- 20.1. In the event of any bona fide dispute or difference arising between the parties in connection with the Contract, the parties shall attempt to resolve such dispute or difference in good faith between themselves or by mediation. It is the responsibility of the Purchaser to inform the Seller immediately of any issue that may lead to a dispute (including but not limited to quality, service, cost, deadline), without such information, no disputes will be entered into.
- 20.2. If after such reasonable attempts outlined in clause 20.1, and after all information requested is reviewed, the dispute remains unresolved, then any dispute arising under this sub-contract may be determined by either adjudication or arbitration.

- 20.3 The choice of the final tribunal shall be determined by the Quensus.
- 20.4 The parties agree that, in the event of an adjudication or arbitration to resolve a dispute arising under this agreement:
- a) they will use best endeavours to refer the dispute to the same adjudicator or arbitrator to whom a Related Dispute, if any, is referred; and
  - b) the adjudication or arbitration proceedings shall be consolidated with the adjudication or arbitration for the Related Dispute, and the parties agree that the adjudicator or arbitrator, as the case may be, shall have power to order consolidation of such proceedings; and
  - c) where the same adjudicator or arbitrator cannot be used, or in cases where the dispute is not a Related Dispute, unless otherwise agreed by the parties, any adjudicator or arbitrator shall be nominated by the President or Vice President of the Royal Institution of Chartered Surveyors.
- 20.5 All legal fees incurred due to any legal proceedings brought by either party or any third party against Quensus in relation to or because of this agreement, including Arbitration, Mediation, Adjudication and/or Court proceedings, shall be fully recoverable by Quensus as a debt from the Purchaser.

## 21. How we may use your personal information

- 21.1. You confirm you have read and understood our Privacy Policy. We may make changes to our Privacy Policy at any time and will notify you in writing of any changes.
- 21.2. You consent to us processing data relating to you for the purposes of:
- 21.2.1. supplying the products and services to you;
  - 21.2.2. processing your payment for the products; and
  - 21.2.3. if you agreed to this during the order process, to give you information about similar products that we provide, but you may stop receiving this at any time by contacting us.
- 21.3. We may make such information available to those who provide products or services to us (such as advisers), regulatory authorities, potential purchasers of the company or as may be required by law.
- 21.4. You consent to the transfer of such information to our business contacts outside the European Economic Area in order to further our business interests even where the country or territory in question does not maintain adequate data protection standards.
- 21.5. We may pass your personal information to credit reference agencies. Where we extend credit to you for the products we may pass your personal information to credit reference agencies and they may keep a record of any search that they do.
- 21.6. We will only give your personal information to other third parties where the law either requires or allows us to do so.

## 22. Other important terms

- 22.1. **We may transfer this agreement to someone else.** We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing if this happens and we will attempt to ensure that the transfer will not affect your rights under the contract.



- 22.2. **You need our consent to transfer your rights to someone else.** You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing.
- 22.3. **Nobody else has any rights under this contract.** This contract is between you and us. No other person shall have any rights to enforce any of its terms pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 22.4. **If a court finds part of this contract illegal, the rest will continue in force.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 22.5. **Even if we delay in enforcing this contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.
- No relaxation, forbearance, delay or indulgence by the Seller in enforcing any of the terms or conditions of the Contract shall prejudice the Seller's rights to insist upon the strict compliance with the terms of the Contract, nor shall the same constitute a waiver or estoppel.
- 22.6. **You need to take reasonable steps to ensure reasonable practices within your business.** If the Purchaser is a business, the Purchaser will comply and use all reasonable endeavours to ensure the Purchaser's employees comply with the Anti-Corruption Policy and with all applicable anti-bribery and anti-corruption legislation. Where the Purchaser has reasonable grounds to believe that there has been any malpractice by them, any of their representatives, or by any of the Purchaser's employees, the Purchaser will promptly notify the Seller. Without prejudice to any other remedy the Seller may have, if the Seller have reasonable grounds to believe that the Purchaser or any of Purchaser's employees have breached this clause, the Seller may terminate the Agreement with immediate effect by notice to the Purchaser, and payment shall be made to the Seller as detailed in clause 6.
- 22.7. **This agreement can only vary on Seller's permission in writing.** Unless confirmed by Seller in writing, no additions to or modifications to the Order or to these Terms and Conditions will be binding.
- 22.8. **No previous conversations are included in this agreement unless specifically stated.** This agreement supersedes any previous agreement or arrangement between the Parties in relation to the subject matter of this sub-contract (whether oral or written) and represents the entire understanding between the Parties. The Purchaser acknowledges that in entering into this sub-contract it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement.
- 22.9. **Which laws apply to this contract and where you may bring legal proceedings.** These terms are governed by English law and you can bring legal proceedings in respect of the products and/or services in the English courts only, subject to clause 20.