The Convenience Factory

FINAL

# Business Terms and Conditions

THE CONVENIENCE FACTORY B.V.

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# 1. Definitions

**TCF**: The Convenience Factory B.V.; **Customer**: the counterparty acting in the course of its profession or business; **Agreement**: each order, quotation or other agreement between TCF and the Customer; **Services**: advice, development, implementation, hosting, software, maintenance and other work supplied by TCF; **Writing**: letter, email or an agreed digital channel.

# 2. Scope and order of precedence

1. These terms apply only to business customers and not to consumers. A foundation, association or other party that is neither a consumer nor acting in the course of a business is covered only if expressly agreed in Writing.
2. The quotation, statement of work or individual agreement prevails on the same subject. A data processing agreement prevails over clause 15 on the same subject. Customer purchasing terms do not apply unless TCF expressly accepts them in Writing.
3. TCF makes these terms available before or when the Agreement is concluded in a form the Customer can store and access later.
4. This version applies when incorporated into a new Agreement. It replaces terms of an existing Agreement only in accordance with clause 23.
5. If both the Dutch and English texts apply to the same Agreement, the Dutch text prevails in case of a difference unless the parties agree another contract language in Writing.

# 3. Formation of the Agreement

1. A quotation remains open for the period stated in it. If no period is stated, TCF may withdraw it before acceptance.
2. The Agreement is formed when the Customer accepts the quotation in Writing, TCF confirms the order in Writing, or TCF begins performance with the Customer's consent.
3. Changes and promises bind TCF only if confirmed in Writing by an authorised representative. The Customer reports errors in an order confirmation within five working days.

# 4. Prices and rates

1. Prices are in euros, excluding VAT and other applicable charges unless stated otherwise. The quotation says whether a fee is fixed, recurring or time-based.
2. TCF may adjust a recurring fee annually, first after the Agreement has run for twelve months. The new fee equals the existing fee multiplied by the CBS consumer price index for all households for the fourth calendar month before the adjustment month, divided by the same index for that month one year earlier. Both figures are taken from the same series, with base year 2025=100 or the successor series designated by CBS. TCF states the figures used and gives at least thirty days' written notice. A fall in the index is applied in the same way.
3. TCF may pass on changes in taxes payable by law. Any other fee change, including an adjustment for external costs, is announced in Writing at least thirty days in advance, with the reason and new fee. The Customer may then terminate the affected recurring service without a termination charge by giving notice before the change takes effect, with termination effective on that date. The existing fee applies until that date. An agreed fixed project price changes only with the Customer's written consent.

# 5. Invoicing and payment

1. TCF invoices as stated in the quotation or Agreement. Otherwise invoices are issued periodically in arrears and payable within fourteen days of the invoice date.

2. The Customer gives a reasoned notice of an invoice dispute within fourteen days of receipt. The undisputed amount remains payable on time.
3. Late payment bears Dutch statutory commercial interest from the day after the due date. The Customer may not suspend or set off payment except where mandatory law permits it.

# 6. Collection and legal costs

The Customer reimburses reasonably incurred extrajudicial collection costs to the extent permitted by law. TCF substantiates those costs on request; these terms impose no automatic percentage or fixed minimum charge. Court costs are payable in accordance with law and any court costs order. The same costs are not charged twice.

# 7. Delivery and timing

1. TCF supplies the Services and any goods described in the Agreement. Dates are estimates unless expressly stated in Writing to be binding deadlines for which no notice of default is required.
2. The Customer supplies accurate information, access, materials, decisions and cooperation on time. Resulting delays reasonably extend the schedule; demonstrable additional work may be charged.
3. Risk in physical goods passes on delivery to the agreed address. Retention of title is addressed in clause 13.

# 8. Delivery and acceptance

1. Deliverables are assessed against acceptance criteria in the Agreement. If none are stated, the Customer reviews within ten working days and gives specific written notice of any failure to meet agreed requirements.
2. TCF receives a reasonable opportunity to remedy a reported failure. Use for the agreed purpose, or failure to give timely specific notice, constitutes acceptance of defects apparent on ordinary use.
3. Acceptance does not limit rights that cannot be excluded by mandatory law.

# 9. Extra work

Work outside the agreed scope is extra work. Where practicable, TCF explains the effect on price and timing in advance and performs it after the Customer agrees in Writing. TCF may take reasonably necessary steps to limit immediate damage or a security risk and will inform the Customer promptly.

# 10. Warranty and complaints

1. TCF performs Services with the care of a reasonably competent contractor. A specific warranty applies only if agreed in Writing.
2. The Customer checks deliverables within the acceptance period and reports latent defects within a reasonable time after discovery, with sufficient detail for investigation.
3. Remedy is the first response to an attributable defect unless that is not reasonably possible. The liability provisions in clause 17 remain applicable. Rights that cannot be excluded or limited by mandatory law remain unaffected.

# 11. Maintenance, support and service levels

Maintenance, support hours, availability, response times, backups and service credits apply only if set out in the Agreement or a separate SLA. The Customer maintains suitable equipment, connectivity and current contact details. TCF may perform planned maintenance and gives advance notice where reasonably practicable.

# 12. Term and termination

1. A fixed-term Agreement ends on the agreed date unless renewed in Writing. Either party may terminate an indefinite Agreement on three months' written notice unless otherwise agreed. The specific switching rights in paragraphs 4 to 10 prevail over this general notice period.
2. On termination, the Customer pays for Services supplied to the end date and unavoidable costs already incurred, to the extent permitted by law. On request, TCF returns the Customer's data and materials in the available commonly used format. Unless otherwise agreed, these remain available for retrieval for thirty days after the end date. They are then deleted unless retention is legally required or otherwise agreed in Writing. A data processing agreement may require a different lawful retention period or return procedure.
3. Either party may terminate if the other commits a material breach and fails to remedy it within thirty days after written notice, unless law permits termination without a remedy period. Mandatory insolvency rules remain unaffected.
4. For a data processing service subject to Chapter VI of the EU Data Act, the Customer may give TCF written notice requesting a switch to another provider, to its own infrastructure, or termination with data deletion. The notice period for initiating this route is at most two months; a longer contractual termination notice period does not prevent this right.
5. Following the notice period, TCF facilitates switching without undue delay within a transitional period of at most thirty calendar days. TCF provides reasonable assistance, maintains the agreed continuity and a high level of security during transition and retrieval, explains known continuity risks and cooperates diligently with the Customer and the new provider. The Customer and the new provider cooperate in good faith.
6. If transition within thirty calendar days is technically unfeasible, TCF notifies the Customer within fourteen working days of the request, with technical reasons and an alternative period of at most seven months. The Customer may extend the transitional period once for a period it considers more appropriate for its own purposes. Mandatory statutory exceptions prevail.
7. Exportable data includes input and output data and metadata directly or indirectly generated by the Customer's use of the service, and exportable digital assets in which the Customer has usage rights independent of this Agreement. Data or assets protected by TCF's or third parties' intellectual property rights or trade secrets are excluded only to the extent permitted by law; exclusions must not prevent or delay legally required switching. Before contract formation, TCF exhaustively specifies for the service the exportable categories and permitted exceptions and identifies available formats, open interfaces, online information on data structures and relevant switching information. Export takes place in a structured, commonly used and machine-readable format to the extent required by law. TCF takes the applicable measures for interoperability and, for infrastructure services, functional equivalence as required by law.
8. After transition, there is a period of at least thirty calendar days for retrieval of exportable data. Afterwards, and following successful switching, TCF erases the Customer's data and digital assets relating to the service unless the Customer has agreed otherwise or law requires retention. The Agreement ends on successful completion of switching, or at the end of the notice period where the Customer chose deletion rather than switching; TCF confirms termination.
9. Until 12 January 2027, any switching charges do not exceed directly incurred switching costs and are disclosed in advance. From that date TCF charges no fees for legally required switching or data egress. Ordinary service fees during the applicable term and legally permitted, clearly agreed early termination charges are distinct from those charges.

10. Paragraphs 4 to 9 do not reduce any further statutory rights. If a statutory exception to specific Data Act duties applies, TCF informs the Customer before contract formation. The specific export and deletion rules prevail over paragraph 2.

# 13. Retention of title

Physical goods remain TCF's property until the Customer has paid the amounts due for those goods and related work, to the extent permitted by law. Delivery does not transfer ownership of software or other intellectual property; usage rights are in clause 14.

# 14. Intellectual property and licence

1. Each party retains rights in materials, software, methods and documentation it already owned. Rights in bespoke work developed by TCF remain with TCF unless the Agreement expressly provides for transfer. Transfer takes place by the instrument required by law and after payment of the fee agreed for that bespoke work; a separate transfer fee applies only if agreed in Writing in advance.
2. From delivery, the Customer may use deliverables for the agreed purpose, including during the agreed payment period. The usage right is non-exclusive. For bespoke work it continues indefinitely after payment of the associated fee unless a different term was agreed in advance. For hosting, SaaS and other recurring access it applies during the agreed service period. A payment dispute about other work does not affect a fully paid bespoke licence. Suspension for an overdue unpaid fee for the relevant usage right follows clause 19 and does not limit statutory switching rights.
3. Transfer of the usage right is permitted only with the Agreement or relevant business and TCF's prior written consent, subject to mandatory law. Rights to copy, modify software or receive source code exist to the extent agreed or permitted by law. The Customer may make a backup copy as necessary for the agreed use.
4. Third-party and open-source components are subject to their own licences. TCF makes applicable licences and material restrictions available before use and ensures that the agreed use is permitted. The Customer's mandatory rights remain unaffected.
5. TCF indemnifies the Customer against substantiated third-party claims that material supplied by TCF infringes their intellectual property rights when used as agreed. The indemnity covers amounts awarded in a final judgment or a settlement approved by TCF in Writing and reasonable necessary defence costs, subject to clause 17. The Customer promptly notifies TCF, lets TCF conduct the defence and settlement negotiations and provides reasonable cooperation. Without the Customer's written consent, TCF does not settle on terms that require the Customer to admit liability or undertake obligations other than payment.
6. The indemnity does not apply to the extent the claim is caused solely by Customer-supplied material, a modification without TCF's consent or an unagreed combination with third-party material. At its own cost, TCF may obtain the necessary usage rights or modify or replace the material without material loss of functionality. Only if this is not reasonably possible may TCF terminate the affected part and refund advance payments for the unsupplied part. Accrued indemnity claims remain in force.

# 15. Personal data

The parties determine who is controller and processor for each processing activity. If TCF processes personal data on the Customer's behalf, the parties sign a data processing agreement compliant with Article 28 GDPR before processing begins. These terms do not replace that agreement. Each party complies with privacy law for processing for which it is responsible.

# 16. Confidentiality

1. Each party protects the other's confidential information and uses it only to perform the Agreement.
2. The duty does not cover information that is lawfully public, already known, independently developed or required to be disclosed by law or a competent authority. Where lawful, the receiving party gives advance notice.
3. Information is shared only with personnel and subcontractors who need it and are bound by suitable confidentiality terms. The duty applies during the Agreement and for five years afterwards; trade secrets remain protected while they qualify as such.

# 17. Liability

1. A party that discovers a breach gives written notice and a reasonable opportunity to remedy it, unless remedy is permanently impossible or cannot reasonably be awaited.
2. To the extent permitted by law, TCF is not liable for indirect loss, including consequential loss, loss of profit, lost savings, loss or corruption of data, or reputational loss.
3. For a project, TCF's total liability per event or related series is capped at the agreed contract fee for the affected project, excluding VAT. For a recurring service, the cap is the total fees excluding VAT paid or payable for the affected service in the twelve months before the first event causing the loss. If the service has then run for less than twelve months, the agreed fees for the first twelve months apply; where the agreed total term is shorter, the fees for that entire term apply. A related series is treated as one event. If no fee was agreed, this paragraph imposes no contractual cap. The cap applies independently of any insurance payment.
4. The liability cap in paragraph 3 and the loss exclusions in paragraph 2 do not apply to wilful misconduct or deliberate recklessness by TCF's management, or to the extent mandatory law prohibits exclusion or limitation.
5. A damages claim expires if the Customer does not notify TCF of it in Writing within twelve months after discovering the loss. Timely notification does not replace bringing proceedings within the applicable statutory limitation period. This contractual expiry rule does not apply in the cases in paragraph 4 or where mandatory law prevents it.
6. Liability for subcontractors and intellectual property indemnity claims fall within the same cap to the extent permitted by law. Loss is not compensated twice.

# 18. Force majeure

1. Force majeure is an event beyond a party's reasonable control that prevents performance, including serious internet, cloud or hosting outages, cyberattacks despite appropriate security, widespread power failure, pandemics, government measures, sanctions and export restrictions.
2. The affected party gives prompt notice and limits the effects. Affected duties are suspended while the event continues.
3. If the event lasts more than sixty days, either party may terminate the affected part in Writing. The Customer pays for properly performed work and unavoidable costs to the extent permitted by law.

# 19. Suspension, security and termination

After written warning, TCF may suspend its performance if the Customer fails to pay an amount due or refuses necessary cooperation. TCF may request reasonable security where specific circumstances justify it. Suspension or termination for insolvency remains subject to mandatory law, including restrictions on ipso facto termination.

## 20. Assignment and transfer

1. The Customer may not assign contractual rights without TCF's prior written consent, except monetary claims whose assignment or pledge may not be restricted under Article 3:83(3) of the Dutch Civil Code or other mandatory law. Those claims require no consent from TCF.
2. Transfer of the entire Agreement or of obligations requires the cooperation required by law. The Customer gives advance cooperation to transfer of the Agreement to an affiliate or successor of TCF able to perform it; TCF gives written notice. Other transfers of the Agreement require the consent of the parties concerned.
3. Transfer of a software licence is separately governed by clause 14 and applicable mandatory law.

## 21. Successors

The Customer requires a permitted successor or transferee of the relevant business or goods to comply with obligations that by their nature should continue, to the extent permitted by law. The Customer remains responsible where legally permitted.

## 22. Multiple customers

If more than one party is named as Customer, each is jointly and severally liable only if the Agreement expressly says so and applicable law permits it.

## 23. Changes to these terms

A change applies to an existing Agreement only after TCF supplies the revised terms and the Customer accepts them in Writing, unless the Agreement or mandatory law allows another procedure. A change does not reduce accrued rights.

## 24. Severability and no waiver

If a provision is invalid or unenforceable, the others remain effective. The parties replace it with a valid provision that most closely reflects its purpose. Failure to exercise a right is not a waiver.

## 25. Governing law and courts

Dutch law governs. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded. Disputes go to the competent court of the District Court of Oost-Brabant, sitting in 's-Hertogenbosch, unless mandatory law says otherwise. The parties first try in good faith to resolve a dispute within thirty days; this does not prevent urgent relief.