

# General terms and conditions

These general terms and conditions ('**General Terms and Conditions**') together with all other written agreed upon prices, offers, contract proposals or purchase orders (bestelbon) constitute the entire contract between the parties (the '**Contract**').

'**Toolsquare**', '**We**' or '**Us**' refers to Toolsquare BV, with registered office at Generaal Drubbelstraat 32, 2600 Antwerp (Belgium), RPM Antwerp, division Antwerp, registered under company number VAT BE 0746.407.674.

## I. General

### Article 1 - Scope of the General Terms and Conditions

- 1.1. These General Terms and Conditions apply to all services that We provide (the '**Services**') and to all the Machine-units (as defined below) We sell. When applicable, the Services can also be listed, extended or nuanced by e-mail, fax, via the online portal or other written medium by mutual agreement.
- 1.2. Without prejudice to the application of possible deviating conditions in a separate written agreement, these General Terms and Conditions apply to every offer, order confirmation, purchase or sale agreement between Toolsquare and its customer (the '**Customer**'). In case of contradiction between these General Terms and Conditions and any specific written agreement, the latter prevails.

### Article 2 - Cognisance and acceptance

- 2.1. The Customer acknowledges that he has sufficient command of the language in which these General Terms and Conditions have been drawn up to understand and accept these General Terms and Conditions in full. Any translations of these General Terms and Conditions into any other language shall be for the convenience of the Customer only and shall in no way affect the interpretation.
- 2.2. The Customer is deemed to fully and irrevocably agree with and accept these General Terms and Conditions by the mere fact of placing an order (including submitting an accepted purchase order), unless proven otherwise. The acceptance of these General Terms and Conditions implies also that the Customer completely renounces to the application of his own terms and conditions so that they are not opposable to Toolsquare.

### Article 3 - Formation of the Contract

- 3.1. All price lists, offers and contract proposals of Toolsquare are without obligation, are for information purposes only and are not binding. All prices, offers and contract proposals will only be considered a Contract and thus be binding for Toolsquare and the Customer on the date they are explicitly agreed upon by both the Customer and Toolsquare.
- 3.2. Any cancellation of a Contract must be made in writing and is only valid before any Services have been rendered, before any Machine-units have been delivered or any costs have been incurred by Toolsquare.

### Article 4 - Description of the goods and services

- 4.1. Toolsquare has a hybrid offering that by default is as follows:
  - sale of machine units consisting of a "broker" unit and one or more "sender" units (hereafter together referred to as "**Machine-units**" or solely as a "**Machine-unit**") that can be connected to devices and machines of all kinds in order to i) control access rights, ii) control reservations, iii) receive feedback on the operability/functionality, iv) generate safety checklists and v) allocate and manage costs related to the connected device(s) and/or machine(s);
  - IoT connectivity service and web-based workshop management platform by subscription or software licence ("**SaaS-Service**").
- 4.2. The purchase of Machine-units shall be regarded as a purchase/sale within the meaning of Article 1582 et seq. of the Dutch Civil Code ("*Burgerlijk Wetboek*").
- 4.3. Additional Services that can be provided in a separate contract:
  - repair and maintenance of the Machine-units ;
  - possibility of guaranteeing uptime.
- 4.4. Should the Customer need assistance or have a question about the Services, he can contact the helpdesk free of charge at the email address: [support@toolsquare.io](mailto:support@toolsquare.io). The helpdesk will do its utmost to help the Customer via remote assistance as soon as possible after receipt of the support request. The costs incurred as a result of unjustified complaints and/or investigations will be borne by the Customer.

## II. Rights and obligations of the parties

### Article 1 - Toolsquare's obligations

- 1.1. In addition to the Machine-units, Toolsquare provides the Customer with a manual.
- 1.2. On demand of the Customer, the Machine-units can be installed by Toolsquare or by a third party appointed by her.
- 1.3. On demand of the Customer, a Machine-unit can be disconnected by Toolsquare. In case of disconnection of a Machine-unit by Toolsquare, this will, for subscription and thus invoicing purposes, be deemed to have happened on the date the Machine-unit has been disconnected.

### Article 2 - Customer's obligations

- 2.1. In case a Customer disconnects a Machine-unit, he has to notify Toolsquare immediately in writing. In case of disconnection of a Machine-unit by the Customer himself, this, for subscription and thus invoicing purposes, shall be deemed to have occurred on the date of the written notification.
- 2.2. For the implementation of the take-back obligation for professional electrical and electronic equipment, Toolsquare has joined RECUPEL. The Customer undertakes to bear any costs of collection and processing the Machine-units that are the subject of this Contract when they are to be discarded. In order to comply with waste legislation, the Customer may call upon an operator with whom RECUPEL has concluded a Charter ([www.recupel.be](http://www.recupel.be)). If required, Toolsquare can put the Customer in touch with an operator for a price quote.

### Article 3 - Prices and payment

- 3.1. The Services and Machine-Units will be invoiced to the (electronic) address provided by the Customer when ordering the Services. The Customer undertakes to inform Toolsquare as soon as possible of any changes in this respect. Unless expressly agreed otherwise, the prices quoted by Toolsquare are exclusive of VAT, transport and insurance costs, which are all fully borne by the Customer.
- 3.2. Payments must be made into our bank account as listed on the invoice, stating the structured information.
- 3.3. The costs for the technician (for installation, modification, repair or disconnection of one or more Machine-units) will be charged to and borne by the Customer on a time spent hourly basis. The hourly rate is an estimate of the total price and will be calculated on the basis of the number of hours actually worked. The technician's travel expenses are not included in this hourly rate and must be paid in addition at a rate of 0,35 EUR (excl. VAT) per kilometre.
- 3.4. The rates can be adjusted annually on 1 January by Toolsquare on the basis of the following formula:  
New price = Base price \* New index / Initial index  
The following definitions apply:
  - Base Price: price at the start of the Contract;
  - Initial index: the index "reference wage cost national average" of the month preceding the of the Contract, published by Agoria;

- New index: the index "reference wage cost national average" of the month preceding the month of the anniversary of the entry into force of the Contract, published by Agoria.
- 3.5. *Payment of the Machine-units* - When placing an order for the acquisition of the Machine-units, an advance payment of 50% of the total value of the Machine-units must be paid by the Customer to Toolsquare within eight (8) calendar days after signing the offer or purchase order via bank transfer. The balance is to be paid within thirty (30) calendar days after delivery of the Machine-units via bank transfer.
- 3.6. *Payment of the Saas-Service* - Our fees and costs with regards to the Saas-Service (subscription costs) will be quarterly invoiced (i.e. at the start of the Contract and at the start of each quarter). Invoices are payable by the Customer within thirty (30) calendar days of the invoice date unless a longer payment period is granted in writing.
- 3.7. In case of disconnection of a Machine-unit, the Saas-Services subscription costs for the quarter in which the Machine-unit is disconnected remains fully due and - if already paid - cannot be reimbursed.
- 3.8. Invoices must be protested in writing within eight (8) calendar days of receipt (i.e. from the invoice date), failing which the invoices shall be deemed to have been definitively accepted by the Customer.
- 3.9. Objections against the height of an invoice do not postpone the payment obligation.
- 3.10. In the event of full or partial non-payment of an invoice on the due date, the Customer shall be liable, ipso jure and without prior notice of default, to pay interest on arrears on the unpaid invoice amount at a rate of 8% per year.
- 3.11. In case of full or partial non-payment of an invoice on its due date, all other claims against the Customer which have not yet fallen due will become due by operation of law and without prior notice of default. In that case Toolsquare also reserves the right to suspend the execution of the Saas-Services, without prior notice of default and without any compensation, until Toolsquare has received full payment (incl. interests and costs).
- 3.12. Payments are always first settled against the administrative fees and the costs of recovery, then the interest due in accordance with these General Terms and Conditions and only then against the outstanding (balance of the) invoice(s), where the oldest outstanding amounts are settled first, irrespective of any comment(s) or statement(s) of the Customer regarding its payment(s). Toolsquare can, without being in default, refuse an offer of payment when the Customer indicates a different sequence of attribution of the payment. Toolsquare can refuse a full repayment of the principal sum, when this does not include the interest on arrears and collection costs.
- 3.13. The Customer is never entitled to offset his debts to Toolsquare.

#### Article 4 - Retention of title

- 4.1. All Machine-units remain the full property of Toolsquare until full payment of all invoice amounts, including costs, interest and damages. In case the Machine-units are not fully paid (and after a single written reminder) Toolsquare is entitled to reclaim the Machine-units in their entirety and claim all possible costs related to the reclamation.
- 4.2. The Machine-units delivered by Toolsquare, which pursuant to article 8.1 above are subject to retention of title, may not be resold and may never be used as a means of payment. The Customer is not authorised to pledge or encumber in any way the Machine-units that are subject to retention of title.
- 4.3. The Customer must at all times do everything that can reasonably be expected of him to safeguard Toolsquare's ownership rights. If third parties seize the Machine-units subject to retention of title or wish to establish or assert rights to them, then the Customer is obliged to notify Toolsquare of this immediately.

#### Article 5 - Delivery, maintenance and repair

- 5.1. The Machine-units are delivered after written acceptance of the order by the Customer and Toolsquare and after payment of the advance by the Customer in accordance with article 7.5 above, depending on the stock.
- 5.2. The Machine-units can be installed by Toolsquare after an appointment is made with the Customer. Prior to the installation of the Machine-units, Toolsquare will inform the Customer about the necessary technical requirements concerning the installation of the Machine-units. The Customer is responsible for all technical connections (electricity, wifi-connection, required space) the Machine-units need.
- 5.3. The date of delivery is purely indicative and is therefore not binding, delay in delivery cannot in any way give rise to any penalty or compensation.
- 5.4. The risks associated with the delivered Machine-units, within the meaning of article 1138 in fine of the Dutch Civil Code ("*Burgerlijk Wetboek*"), shall pass to the Customer at the date of delivery.
- 5.5. If the Customer wishes so, the repair and maintenance of the Machine-units can be done by Toolsquare at an additional charge. However, Toolsquare is, at her own discretion, at all times, entitled to outsource the maintenance and repair of the Machine-units to third parties.
- 5.6. In no event will Toolsquare be responsible for the maintenance or repair of the Customer's machines and/or devices which are connected to the Machine-units.

#### Article 6 - Control, complaints and guarantee

- 6.1. The Machine-units shall meet the customary requirements and standards that can reasonably be set at the time of delivery and for which they are intended in normal use.
- 6.2. The Customer undertakes to accept the Machine-units immediately upon delivery and to examine whether their quality corresponds to what was agreed upon. By accepting the delivery of the ordered Machine-units, the Customer confirms that the delivery is complete in accordance with the order confirmation, as a result of which all visible defects are covered.
- 6.3. Complaints related to the quantity and/or non-conformity should be reported to Toolsquare immediately upon delivery (in case of visible defects) or at the latest within seven (7) calendar days (in case of hidden defects) by registered mail stating the relevant details (including order and invoice numbers), failing which Toolsquare may consider each complaint inadmissible.
- 6.4. All new Machine-units are covered by a guarantee limited to construction defects (i.e. defects in mechanical and electronic parts), provided that these defects are not due to improper use.
- 6.5. The guarantee for the Machine-units applies for a period of two (2) years after delivery, unless parties have agreed otherwise.
- 6.6. Except in case of mandatory law, the guarantee of Toolsquare consists, at Toolsquare's discretion, only in the replacement of Machine-units by identical or at least equivalent Machine-units, or in the repair of the Machine-units. The application of the guarantee can under no circumstances give rise to any other form of compensation.
- 6.7. Any form of guarantee lapses if a defect has arisen as a result of or arising from injudicious or improper use of it, incorrect storage or maintenance by the Customer and/or third parties if, without the Toolsquare's written permission, the Customer or third parties have made changes or tried to make changes to the Machine-units, if other items were attached to it which should not have been attached to it or if it has been processed or treated in a way other than in the prescribed manner. Neither is the Customer entitled to any guarantee if the defect arises due to or as a result of circumstances beyond Toolsquare's control, including weather conditions such as, for example but not limited to, external rainfall or temperatures et cetera.

### III. Term of the agreement

#### Article 1 - Term and cancellation

- 1.1. The Contract is concluded for an indefinite period of time, unless parties agree otherwise in writing.
- 1.2. The Customer may terminate this Contract at any moment in writing without any cause. The Saas-Services subscription costs for the quarter in which the Contract is terminated remains fully due and - if already paid - cannot be reimbursed.
- 1.3. After an initial period of thirty-six (36) months, Toolsquare may terminate this Contract annually at the end of each calendar year, upon prior written notice of three (3) months, by registered mail, without any cause.
- 1.4. The parties may terminate the Contract at any moment by mutual consent.

#### Article 2 - Dissolution

- 2.1. Toolsquare is entitled to unilaterally dissolve the Contract with the Customer at any moment, with immediate effect, without prior judicial authorisation or further written proof of default and without payment of any damages, in the following cases: (i) if the Customer, despite written notice of default, remains in default of the (timely and proper) performance of one or more obligations arising from the Contract; (ii) in the event of a cessation of payments or (the filing of) a bankruptcy or judicial reorganisation proceeding by the Customer; (iii) in the event of the liquidation or cessation of the activities of the Customer; or (iv) if the Customer refuses to make a contractually stipulated advance payment.



- 2.2. In case of dissolution Toolsquare is also entitled to a compensation of 8% of the outstanding invoice amount as a compensation for costs, loss of profit and damage suffered by Toolsquare, without prejudice to the right of Toolsquare to claim compensation for possible higher actual damage, and all claims of Toolsquare on the Customer will be immediately due and payable.

#### **Article 3 - Force majeure**

- 3.1. Toolsquare is not obliged to fulfil any obligation towards the Customer if We are prevented from doing so as a consequence of force majeure, which is a circumstance that is not due to any fault on our part and for which We cannot be held accountable by virtue of the law, a juristic act or generally accepted practice.
- 3.2. In these General Terms and Conditions, force majeure is understood, in addition to the legal definition and interpretation of the term, to include all external causes, foreseen or unforeseen, over which Toolsquare cannot exercise any influence, but as a result of which Toolsquare is unable to fulfil its obligations, including strikes at Toolsquare's business or that of third parties. Toolsquare is also entitled to invoke force majeure if the circumstance preventing (further) fulfilment of the Contract occurs after Toolsquare should have fulfilled its commitment.
- 3.3. Toolsquare may suspend its obligations under the Contract during the period of force majeure. If this period lasts longer than two (2) months, each of the parties is entitled to dissolve the Contract without any obligation to compensate the other party for damages.

### **IV. Intellectual property**

#### **Article 1 - Intellectual property**

- 1.1. Intellectual Property Rights shall mean: all intellectual property rights in any part of the world including copyright, neighbouring rights, patents, application for patents, trade names, logos, drawings, models or applications for registration as a drawing or model, trade and service marks, rights in business and trade names, rights in domain names, database rights, rights in confidential information and know-how, and (in each case) whether or not registered or registrable and rights of a similar or corresponding character and in all applications and rights to apply for protection of any of the foregoing.
- 1.2. The Customer shall not acquire any Intellectual Property Right as a consequence of the Contract.
- 1.3. Toolsquare grants the Customer a limited personal, royalty-free, non-exclusive, non-transferable license, without the right to sublicense, for the duration of the Contract (unless the license is terminated early in accordance with this Contract), to use its web-based software solely for the internal business purposes of the Customer.
- 1.4. Under no circumstances shall such a license:
  - constitute a transfer of Intellectual Property Rights of Toolsquare;
  - grant the Customer the right to request Toolsquare to provide it with a copy of any software or other products used by Toolsquare to provide the Saas-Services.
- 1.5. The Customer shall indemnify Toolsquare against all losses incurred by Toolsquare arising from the infringement of Toolsquare's Intellectual Property rights by the Customer.

### **V. Liability**

#### **Article 1 - Liability**

- 1.1. Toolsquare does not warrant: (i) that the performance of the Machine-units and the Saas-Services will be uninterrupted, or error-free, or that all errors and/or bugs will be resolved (within a reasonable time); (ii) that the Machine-units and the Saas-Services will be continuously available, virus-free, timely, and complete; or (iii) that the information provided with the Machine-units and the Saas-Services will be complete, correct, accurate, and non-misleading.
- 1.2. Toolsquare will only be liable for direct damages (i.e. damages caused by a technical defect of the delivered Machine-units and Saas-Services) if and insofar this damage is caused by intent or gross fault on its part or on the part of its agents.
- 1.3. Toolsquare shall not be liable for:
  - indirect and/or consequential loss (including, inter alia, loss of revenue, loss of goodwill and damage to Customer's property (e.g. computer (programs), wireless devices) caused by the Machine-units and the Saas-Services. This limitation of liability applies even if Toolsquare was specifically informed by Customer of the potential loss;
  - defects caused directly or indirectly by any act of the Customer or any third party, whether caused by error or negligence including gross fault and intent;
  - damages caused by the use of the Machine-units and the Saas-Services for any purpose other than the purpose for which it was developed or intended by Toolsquare;
  - additional damage caused by the further use by the Customer after a defect has been detected;
  - the loss or wrongful use of Customer data;
  - damage caused by failure to comply with any advice and/or guidelines given by Toolsquare, which it always provides on a discretionary basis; or
  - damages caused by force majeure as described in article 13 above.
- 1.4. In case Toolsquare is held accountable for any damage, the liability of Toolsquare is limited to the amount paid out by the insurance company of Toolsquare.

#### **Article 2 - Indemnification**

The Customer indemnifies Toolsquare for possible claims from third parties, who suffer damages related to the execution of the Contract as a result of the Customer's actions and/or omissions and of which the cause is not directly or indirectly accountable to Toolsquare.

### **VI. Processing of personal data**

#### **Article 1 - Processing of personal data**

- 1.1. The concepts related to the protection of personal data used in this article 17 will have the meaning they have been given in (i) the General Data Protection Regulation (2016/679) of 25 May 2018 and (ii) the national laws implementing the Privacy and Electronic Communications Directive (2002/58/EC) (hereinafter collectively, the "Data Protection Act").
- 1.2. Toolsquare strives to comply with the Data Protection Act when We process information in connection with an identified or identifiable natural person in execution of the Contract (referred to as "personal data" under the Data Protection Act). Our role (either as a controller or as a processor) with regard to the personal data that is processed in the context of the execution of the Contract, is determined in our privacy policy which is available at [www.toolsquare.io](http://www.toolsquare.io).
- 1.3. The information provided by the Customer will be included in Toolsquare's database. These details will be used in relation to the products and/or services offered by Toolsquare. The contact details of the Customer and/or third parties may be passed on to third parties (business partners, subsidiaries) for direct marketing purposes, provided that the Customer has given its prior consent. Without explicit permission the data will not be used or passed on for these purposes.
- 1.4. The Customer may at all times request access to, correction, deletion or transfer of his data and object to the use of the data for direct marketing. This request is free of charge, except if, within a period of six months, a request or a request for additional copies has already been made by the Customer, in which case Toolsquare is entitled to charge a reasonable fee based on the administrative costs resulting from the new request.
- 1.5. The Customer undertakes to comply with the Data Protection Act and will inform its representatives, employees and directors of the processing of their personal data for the purposes stated in our privacy policy. The Customer guarantees that he has obtained the permission of the persons whose personal data are processed by Us.
- 1.6. The Customer confirms that the processing of personal data obtained in the context of the provision of Services will not give rise to an infringement on our part of the Data Protection Act.

## **VII. Miscellaneous provisions**

### **Article 1 - Changes**

Each change to the Contract shall have consequences only if it is agreed in writing and signed by each party. Until a change is agreed in writing, each party shall continue to comply with the provisions of the latest agreed version of the Contract.

### **Article 2 - Nullity**

- 2.1. If any provision of these General Terms and Conditions should be unenforceable or conflict with mandatory law, this shall not affect the validity and enforceability of the other provisions of these General Terms and Conditions. In such a case, the provision in question shall be replaced by an enforceable and legally valid provision which corresponds as closely as possible to the purpose of the original provision.
- 2.2. Furthermore, the parties shall immediately open negotiations in good faith in order to replace the provision declared to be invalid or unenforceable, with retroactive effect to the commencement date where appropriate, by another valid and enforceable provision, the legal consequences of which match those of the provision declared to be invalid or unenforceable as closely as possible.

### **Article 3 - Transfer**

Without prejudice to the consequences attached by law to the transfer of general matters or business units, mergers, splits and equated actions, the parties may not transfer, encumber or in any way trade any of their rights and obligations pursuant to this Contract without the prior written consent of the other parties towards the Contract.

### **Article 4 - Applicable law and competent court**

- 4.1. This Contract is governed by and shall be interpreted solely in accordance with Belgian law, to the exclusion of every Belgian, foreign or international referral rule.
- 4.2. If any dispute arises relating to the Contract or the Services, this dispute will lie within the exclusive jurisdiction of the courts of the judicial district of Antwerp, Antwerp division.