

# GENERAL CONDITIONS

## TRANSRISK, RISKMANAGEMENT & CONSULTANCY B.V.

### 1. DEFINITIONS

The following definitions apply to these General Conditions:

GC	:	the present general conditions
Agreement	:	every agreement as described in art. 2.1
Principal	:	any person concluding an agreement with us as described in art. 2.1
Services	:	all services rendered by us to a principal pursuant to an agreement with said principal
Days	:	all calendar days
Claims	:	all complaints by principal concerning quality or quantity of services or goods provided

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### 2. APPLICATIONS

**2.1** These general conditions are applicable to all agreements in respect of provision of services in the areas of risk control, damage prevention, transportation of goods, packaging, carriage systems, means of transport, transport systems and transport equipment, organization of transport, execution of risk assessment, project supervision, damage expertise, supervision and control of transport operations and in general providing services in these and all related areas, and for all associations that may arise from said agreements for parties involved or new agreements of whatever nature elaborating on said agreements, the latter insofar as these GC are compatible with such agreements. The present GC are also applicable to all quotations issued by us for conclusion of said agreements.

**2.2** In the event that a principal who concludes an agreement with us as described under 2.1 has his own GC that could apply to the agreement to be concluded, our GC shall prevail, also in the event that client's conditions include a similar prevalence clause. Every agreement shall be concluded on the binding condition that our GC apply.

**2.3** Departure from these GC and the statements in 2.1 and 2.2 can only take place by means of written agreement, signed by both parties. If such departure from our GC concerns only one or more items, the remaining terms shall continue to apply in full.

### 3. REALIZATION OF AGREEMENTS

**3.1** Our quotations are without engagement.

**3.2** Agreements become effective upon our acceptance of an assignment commissioned by the principal. Assignment and acceptance can take place both in writing and verbally.

**3.3** Articles 3.1 and 3.2 are correspondingly applicable to amendments and/or additions to agreements concluded.

### 4. CONTENTS OF THE AGREEMENT

**4.1** In principle an agreement comprises the following activities:

- set up a survey and/or prepare a preliminary recommendation or preliminary report;
- compose final recommendation or report;
- preparations for implementation of recommendations;
- transport planning and preparations for realization of transport;
- guide and/or supervise execution of recommendations and/or planned transport, whereby operations which in our view are necessary, carried out by ourselves and/or our personnel, be considered as arising from and forming part of the assignment;
- design and/or improve safety systems, carriage systems, means of transport, transport systems and transport instruments and pertinent or related equipment, packaging, methods of treatment, redevelopment schemes, plans in respect of repressive action and (environmental) measures.

**7.4** As soon as principal shall be in default in respect of his financial obligations, he shall be bound to pay us interest over the total sum due

**4.2** Principal and ourselves may mutually agree to depart from the terms under sub.1 of this article.

**4.3** These GC also apply to verbal recommendations made by us within the framework of implementation of an agreement.

### 5. INVOLVEMENT OF THIRD PARTIES

**5.1** If in our judgment implementation of an agreement involves activities in a field in which we do not consider ourselves expert or qualified, we are, unless specifically otherwise agreed, authorized to call in an expert in that field on behalf of principal.

**5.2** We shall then consult with principal on how the additional expenses resulting from the involvement of an outside expert are to be charged to him.

### 6. TARIFFS - DECLARATION OF COSTS

**6.1** Our fee shall be determined on the basis of the time spent by us on implementation of the agreement and according to an hourly rate agreed upon with principal, excluding turnover tax (V.A.T.) insofar as the Act on Turnover Tax is applicable, unless otherwise agreed.

**6.2** Unless otherwise agreed, our rates do not include travel and accommodation expenses connected with execution of work, or other supplementary expenses involved.

**6.3** If in the case described in article 5 we are charged with management and/or coordination of activities of one or more third party, we shall be entitled to adequate remuneration.

**6.4** Unless otherwise agreed by parties on the basis of article 5 sub 2, expenses arising from the involvement of third parties shall be for principal's account and principal shall be directly responsible to said third parties for such expenses and remuneration.

**6.5** We have the right to on-charge in our prices changes in constituent parts of our rates such as transport and insurance costs, levies if any, factory prices and currency changes.

### 7. STATEMENT OF EXPENSES AND PAYMENT

**7.1** If within eight days after date of statement principal has made no objection to said statement, he shall be considered in irrevocable agreement with said statement.

**7.2** All payments due to us pursuant to these GC must be effected within fourteen (14) days after date of submission of our statement, without cost to us, at our offices or by crediting our bank or giro account in the currency invoiced, unless otherwise agreed.

**7.3** If principal fails to meet his obligations in full within the term stipulated in 7.2, he shall be considered in default without further proof of default being required.

**2**

at a rate of 1% per month - part of a month to be considered a full month - without our specifically having to claim such interest.

Moreover principal shall be bound to recompense us in full for losses suffered by us in consequence of a fall in exchange rate in relation to the Dutch guilder of the currency in which payment is to take place.

**7.5** Should we be obliged to take collection measures, principal is bound - without prejudice to the provisions in 7.6 - to reimburse internal expenses incurred by us. We shall be considered as bound to take collection measures if principal remains in default in respect of his financial obligations for a period of more than 30 days. Our internal expenses shall be determined at 5% of the invoice sum, over and above the sum owed pursuant to 7.4, with a minimum of NLG 250.00 per invoice. Parties undertake not to enforce moderation or increase of these internal expenses by legal process.

**7.6** Should we be obliged to pass on to third parties for collection a claim arising from an agreement, all legal and non-legal expenses related to recovery of this claim shall be for principal's account. The amount of such expenses shall be determined by our lawyer and/or bailiff and/or collecting agency charged with such recovery. Parties undertake not to enforce moderation or increase of these costs by legal process, barring principal's right to impugn the statement, determination of which is binding, as being in contradiction of good faith.

**7.7** We have the right to cease implementation of agreements if and for as long as principal fails to fulfil any obligation whatsoever towards us. If principal remains in default for more than 30 days we have the right to dissolve any agreement without principal's having any right to claim compensation from us, but without prejudice to full compensation by the client for every agreement dissolved.

## **8. PROPRIETARY CONDITIONS**

**8.1** The issue of services rendered by us as well as all goods supplied by us within that framework shall remain our property until full settlement of payments owed to us by principal, including interest and all collection costs, as surety for payment by principal of all that is due to us, without exception. We shall acquire ownership of goods manufactured by principal by means of the issue of services and goods supplied by us and being our property. Client declares that he will reserve for us the goods manufactured by him.

**8.2** Principal is bound to maintain with due diligence the issue of services and goods being our property. He is obliged to insure these against all calamities to the invoice value charged by us. If the issue of services or goods are lost or damaged as the result of a calamity the insurance sum is to be paid to us.

Principal is bound to advise his insurance underwriters of this obligation, and to provide us with names and addresses of his insurers. We have the right to advise insurers that insurance sums for goods being our property be paid to us.

## **9. IMPLEMENTATION OF AGREEMENT**

**9.1** In implementing agreements we shall act as principal's agent. We shall look after his interests to the best of our knowledge and ability. Unless specifically otherwise agreed, we shall act towards third parties as principal's authorized representative in the fulfilment and completion of an agreement, with due regard for the provisions recorded in article 5 of these GC on this subject.

**9.2** The provisions in sub 1 shall apply for the full duration of the assignment, subject to principal's authority to exclude such agency for parts of an assignment on a case-by-case basis.

**9.3** We are bound by the general rules and standards of honour. We shall refrain from acting in a manner that might betray principal's trust in us. We shall avoid everything that might prejudice our impartiality.

**11.4** We are not liable for damage suffered by principal caused by his personnel in carrying out our recommendations, unless we can be reproached with having failed in our supervision of said personnel.

## **12. INTERIM TERMINATION**

**12.1** In the event of unilateral termination of the agreement by principal, other than on grounds of serious shortcomings on our part, principal shall owe us such part of the fee as corresponds with the stage of work

**9.4** Principal engages to provide us with all data and information that we consider necessary to execute the assignment.

## **10. GUARANTEE AND CLAIMS**

**10.1** We guarantee the quality of our services and the issue thereof rendered to the best of our knowledge and ability.

**10.2** Culpable errors, inadequacies or deficiencies established by principal within six (6) months after completion of service will be repaired at our expense as quickly as possible, insofar as such are covered by our guarantee commitment in article 10.1.

**10.3** We guarantee principal the reliability and good quality of goods supplied by us, on the understanding that this guarantee goes no further than the guarantee commitment made by supplier of such goods towards ourselves.

**10.4** We engage to repair or replace at our own expense goods supplied by us, inferiority of which has been demonstrated by principal within six (6) months after delivery, insofar as covered by our guarantee commitment in article 10.3.

**10.5** We shall despatch credit notes to principal only after specifically concluding an agreement with him to this effect.

**10.6** Even if principal is of the opinion that services rendered or goods supplied to him are inferior he must fulfil his obligations arising from the agreement in question without compromise. He is not entitled to compensate his financial obligations to us by counterclaims which he claims arise from an agreement, nor to defer his financial obligations.

**10.7** Claims should be submitted to us in writing within fourteen days after date of statement or within fourteen days after fault in question occurs.

**10.8** In the event of differences in quality and quantity of services rendered or goods supplied by us, principal is not permitted to have such services rendered or such goods repaired and/or these and/or parts thereof replaced by third parties without our permission. If third parties are called in without our permission we are relieved of all obligations to principal.

## **11. LIMITATION OF LIABILITY**

**11.1** We are bound to no further compensation in respect of our principals or third parties than arising from article 10, with the proviso that we cannot answer for inadequacies that could not have been avoided under normal conditions, with normal expertise and with observance of due care and that our liability is never higher than the sum of our statement for the agreement in question.

**11.2** Principal shall indemnify us against all third-party liability and against all costs, damages and interests that might arise for us as a direct or indirect consequence of such liability, insofar as these extend to compensation of damage suffered by third parties caused by inadequacies in the services rendered by us or goods delivered by us.

**11.3** Also in the event that the agreement to which the present GC are applicable be dissolved or declared dissolved article 11 shall continue to apply in full force to the extent that it concerns limitation of liability and indemnification.

reached, increased by 50% of the total fee to which we would be entitled upon full completion of the agreement. This increase of 50% shall not be applicable if the unilateral termination by principal arises from force majeure.

**12.2** Should principal terminate the agreement unilaterally as a result of serious shortcomings on our part, and should we terminate the agreement unilaterally without valid claim to force majeure or unreasonable procedure by principal, our right to a fee shall become void.

**12.3** In the event of unilateral termination of the agreement by us on grounds of force majeure we shall be entitled to such part of the fee as corresponds with the stage of work reached.

**12.4** In the event of unilateral termination of the agreement by us on grounds of unreasonable procedure by principal we shall be entitled to such part of the fee as corresponds with the stage of work reached, increased by 50% of the total fee to which we would be entitled upon full completion of the agreement.

### **13. FORCE MAJEURE**

**13.1** In these GC force majeure is understood to mean facts and conditions upon the grounds of which implementation of the agreement cannot reasonably be expected.

**13.2** In any case force majeure is understood to include:

- a) illness of our personnel
- b) inadequacies of appliances and means of transport
- c) decease of personnel

### **14. SECRECY**

**14.1** We engage to maintain strict secrecy in respect of all data with which we are provided by principal. Principal shall not withhold permission for publication thereof for advertising purposes on unreasonable grounds.

**14.2** Principal and his personnel engage to maintain strict secrecy in respect of recommendations and reports issued by us. We shall not withhold principal permission for publication thereof for advertising purposes on unreasonable grounds.

### **15. COPYRIGHT**

**15.1** We possess and shall retain copyright on all recommendations, reports and other data issued on principal's orders.

### **16. PATENTS**

**16.1** We shall be entitled to apply for patents on products designed and/or improved, and/or working methods developed within the framework of implementation of the agreement, while moreover being entitled to transfer patents granted in this matter and/or grant licences thereof to third parties.

**16.2** Insofar as the situation defined in sub 1 of this article arises we shall advise the principal in question thereof.

### **17. INDEMNIFICATION IN RESPECT OF INSURERS**

**17.1** Should principal transfer to third parties, by means of insurance, the risks involved in following advice provided by us, recommendations made by us in reports and transportation planned and/or supervised by us, he is obliged to indemnify us against any recourse on the part of insurers.

### **18. APPLICABLE LAW**

**18.1** All our agreements or agreements arising therefrom cq attached thereto are subject to the law of the Netherlands.

### **19. COMPETENT JUDGE**

**19.1** The absolutely competent Judge at Rotterdam is exclusively authorized to adjudicate disputes arising from agreements concluded with us.

### **20. EVIDENCE**

**20.1** In respect of the financial volume of the mutual obligations arising from agreements concluded with us, our administrative data shall be decisive, barring evidence to the contrary with all means.

**20.2** Should principal appeal to our guarantee obligations pursuant to article 10, onus of proof is upon principal.

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