



**GENERAL CONDITIONS OF THE DIVISION  
"INDEPENDENT GOODS SURVEYORS AND LABORATORIES"**

**affiliated to Voka - Chamber of Commerce and Industry of Antwerpen-Waasland, a non-profit organization  
approved by its Board of Directors dated 8 June 2005**

1. **Scope and Binding Force of the General Conditions** Subject to written agreement expressly deviating from these General Conditions, or except where they are at variance with the regulations governing services performed on behalf of governments, government bodies or any other public entity, all work and commissions undertaken by members (hereinafter called "the Contractor") affiliated to the "Independent Goods Surveyors and Laboratories" Division of the Antwerp Chamber of Commerce and Industry, a non-profit-making organization, are only accepted and undertaken in accordance with the following conditions.

These conditions are regarded as being known to and accepted by the persons or entities issuing instructions to Contractor (hereinafter called the Principal) with renunciation of his own general conditions, and are regarded as governing the whole business relationship between the parties, not only with regard to the order, on which occasion the General Conditions shall be communicated, but also for all subsequent new offers, orders and agreements; if, in respect of one or several of the specific orders, the parties expressly deviate in writing from all or part of these conditions, the conditions shall remain in force between the parties in respect of remaining clauses and preceding or subsequent offers, orders and agreements.

2. **Performance and Methods of Accomplishment**

A. Performance

Work commissioned and undertaken, in the widest sense attributable to it and without this list - provided for information only - being in any way limitative, may be concerned with quantity and quality inspections, analyses, appraising and advising, and related services such as packing, shipping, training and supply of personnel, development and sale of equipment, apparatus and software in connection with the aforementioned activities.

B. Terms of Execution

- a) The Contractor will provide the work using reasonable care and skill and in accordance with Principal's specific instructions as confirmed by Contractor or, in the absence of such instructions:

- (1) the terms of any standard order form or standard specification sheet of the Contractor; and/or
- (2) any relevant trade custom, usage or practice; and/or
- (3) such methods as the Contractor shall consider appropriate on technical, operational and/or financial grounds.

All work performed outside normal working hours, such as, for example, on Saturdays, Sundays and public holidays, may give rise to extra charges being invoiced.

- b) For commissions at home and/or abroad, the Contractor may, whether or not at the request of the Principal, entrust the performance of the service to another party, who in that specific case is to be regarded as the sole, exclusive contracting party towards the Principal. The Principal authorises Contractor to disclose all information necessary for such performance to the subcontractor.
- c) Reports or certificates resulting from the commission (hereinafter 'the Reports of Findings' or 'RoFs') and issued by the Contractor-author are established on behalf of and for the account of the Principal, who expressly accepts that these RoFs will reflect the facts as recorded by the Contractor at the time of intervention only and within the limits of the instructions received. They must always be presented and/or mentioned in their totality and in their particular context. Reports of Findings issued further to the single testing of samples contain the Contractor's opinion on those samples only and do not express any opinion upon the lot from which the samples were drawn. The Contractor is under no obligation to refer to, or report upon, any facts or circumstances outside the specific instructions received or alternative parameters applied.
- d) Should Principal request that the Contractor witness any third party intervention, Principal agrees that the Contractor's sole responsibility is to be present at the time of the third party's intervention and to forward the results, or confirm the occurrence, of the intervention. The Principal agrees that the Contractor is not responsible for the condition or calibration of apparatus, instruments and measuring devices used, the analysis methods applied, the qualifications, actions or omissions of third party personnel or the analysis results. The Principal hereby irrevocably authorizes the Contractor to deliver RoFs to a third party where so instructed by Principal or, at its discretion, where it implicitly follows from circumstances, trade custom, usage or practice.

RoFs are issued on the basis of information, documents and/or samples provided by, or on behalf of, Principal and solely for the benefit of Principal who is responsible for acting as he sees fit on the basis of such RoFs. Neither the Contractor nor any of its officers, employees, agents or subcontractors shall be liable to Principal nor any third party for any actions taken or not taken on the basis of such RoFs nor for any incorrect results arising from unclear, erroneous, incomplete, misleading or false information provided to the Contractor.

Should Contractor receive documents reflecting engagements contracted between Principal and third parties or third party documents, such as copies of sale contracts, letters of credit, bills of lading, etc., they are considered to be for information only, and do not extend or restrict the scope of the services or the obligations accepted by the Contractor.

3. **Specific Obligations Devolving on the Principal** Fulfillment of all the obligations described below as devolving on the Principal forms a necessary condition at any given moment for the accomplishment of the performance by the Contractor. In the event of any non-observance of one or more of the obligations described below, the Contractor may either abandon the performance of the commission, or carry out the commission by means of additional services, which shall be charged separately.

- a) The Principal must supply the Contractor with complete, clear instructions and information with regard to any commission, in writing and in good time, i.e. at least 48 hours beforehand (not counting Saturdays, Sundays and official public holidays). As the information provider, the Principal alone is responsible for the accuracy and completeness of all instructions and statements. He shall inform Contractor in advance of any known hazards or dangers, actual or potential, associated with any order or samples or testing including, for example, presence or risk of radiation, toxic or noxious or explosive elements or materials, environmental pollution or poisons;
- b) The Principal shall make sure that the Contractor obtains all necessary permits for access to the place of performance of the commission, with the exception of those permits which the Contractor is regarded as holding given the nature of his work and take all necessary steps to eliminate or remedy any obstacles to, or interruptions in, the performance of the services.
- c) The Principal shall take all measures and grant the Contractor's employees all necessary facilities to enable them to fulfill their commissions properly, responsibly and safely.
- d) The Principal must supply, if required, any special equipment and personnel necessary for the performance of the services. The Principal is solely responsible for the use of all technical appliances which are not the property of the Contractor.

- e) The Principal shall ensure that any equipment belonging to the Contractor is stored in a suitably adequate and enclosed place or - if such equipment is stored in an installation belonging to the Contractor on the Principal's land - he shall be responsible for its surveillance.
- f) All samples shall be retained for a maximum of 3 months with the exception of samples of liquid gas which must be kept for a maximum of 2 (two) weeks, or such shorter time period as the nature of the sample permits. The mere expiry of this period implies that permission has been given by the Principal to the Contractor to have these samples destroyed and the Contractor shall cease to have any responsibility for such samples. Storage of samples for more than 3 months (or the applicable retain period) shall incur a storage charge payable by the Principal. Principal will be billed a handling and freight fee if samples are returned. Special disposal charges will be billed to the Principal if incurred.
- g) Within the scope of the service to be performed by the Contractor, the Principal is not entitled to make public, publish or have published any verbal or written communications in the widest sense, without the prior written consent of the Contractor.
- h) The Principal guarantees prompt payment of the amounts invoiced by the Contractor.
- i) The Principal engages to fully exercise all its rights and discharge all its liabilities under any relevant sales or other contract with a third party and at law
- j) The Principal acknowledges that the Contractor by providing the services, neither takes the place of the Principal or any third party, nor releases them from any of their obligations, nor otherwise assumes, abridges, abrogates or undertakes to discharge any duty of Principal to any third party or that of any third party to the Principal.

#### 4. **Payment**

##### A. **Fees**

Belgian or foreign taxes and/or duties are not included in the Contractor's prices; these are always for the Principal's account. The Contractor may charge a supplement to take into account any special circumstances in connection with the performance of the commission. If the Contractor is unable to perform all or part of the services for any cause whatsoever outside the Contractor's control including failure by the Principal to comply with any of its obligations the Contractor shall nevertheless be entitled to payment of the amount of all non-refundable expenses incurred by the Contractor and a proportion of the agreed fee equal to the proportion of the services actually carried out.

Fees not established between the Contractor and the Principal at the time the order is placed or a contract is negotiated shall be at the Contractor's standard rates (which are subject to change) and all applicable taxes shall be payable by the Principal.

##### B. **Price Revisions**

All prices agreed by the parties may always be subject to annual revision.

##### C. **Invoicing**

All services, additional services and costs relating to the commission shall be invoiced as the performance proceeds or as incurred. Commissions undertaken for a lump sum price may give rise to installment invoicing.

##### D. **Terms of Payment**

All the Contractor's invoices are to be paid cash by the Principal. In the event of late payment, as from the thirtieth (30th) day following the invoice date and without the necessity of a reminder, an interest will be due equal to 12% a year. Likewise, automatically (ipso jure) and without the necessity of a reminder, a lump sum compensation will be due equal to 10% of the invoice amount, with a minimum of EUR 50 as indemnity only in order to cover the extra-judicial costs. Moreover the contractor is legally entitled to a reasonable compensation for all other recovery costs according to the Belgian law of August 2nd 2002 on combating late payment in commercial transactions.

In the event of any late payment, just as for any non-observance of any (specific) obligation devolving on the Principal, just as in the event of arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by the Principal, the Contractor has the right, moreover, without notice, to suspend automatically the performance of any services whatever and only resume them after payment and/or observance of all obligations.

#### 5. **Liability**

- (1) The Contractor is neither an insurer nor a guarantor and disclaims all liability in such capacity. Clients seeking a guarantee against loss or damage should obtain appropriate insurance.
- (2) A delay in the performance of the commission by the Contractor may not give rise to the payment of an indemnity. The Contractor may in no case be held liable for the whole or partial non-performance of his commission as a result of any event outside Contractor's control including failure by the Principal to comply with any of its obligations hereunder and any restrictions peculiar to the subject of the commission or investigation and/or the restrictions imposed by any authority who may be reasonably assumed to be so empowered. The Contractor, his representatives, subordinates, agents and sub-contractors, shall not be held liable for any loss or damage, directly or indirectly caused by or as a consequence of any erroneous or negligent execution, unless the loss or damage is proven and generated by a proven serious offence. In that case the liability per commission is limited to 10 times the amount invoiced for the performance of the commission with a maximum of EUR 30.000.  
The Contractor shall have no liability for any indirect or consequential loss (including loss of profits).
- (3) The Principal undertakes to guarantee, hold harmless and indemnify the Contractor against any possible claims for loss, damage or expense of whatsoever nature by third parties resulting from any act or omission whatever by the Principal, even if he is without fault.

6. **Forfeiture of Rights** In the event of any claim, the Principal must give written notice to the Contractor within 30 days of discovery of the facts alleged to justify such claim and, in any case, the Contractor shall be discharged from any liability and the matter shall be ipso iure forfeited 3 months from the date of performance by the Contractor of the service which gives rise to the claim; or the date when the service should have been completed in the event of any alleged non-performance.

7. **Recruitment and/or Canvassing of Personnel by the Principal** The Principal is prohibited from recruiting or canvassing the Contractor's personnel or making use of their services, unless with the prior written consent of the Contractor. Infringement of this article shall ipso jure give rise to the payment of compensation for loss to the Contractor, equal to twice the gross annual salary of the member of personnel of whose services the Contractor has been deprived.

8. **Transfer of Rights and Obligations** With the exception of the provisions of article 2B, b) above, neither of the parties, without the prior written consent of the other party, may transfer his rights and obligations arising out of their agreement to a third party, whilst associate companies and subsidiaries of the Contractor are not regarded as third parties.

9. **Confidentiality** The Principal and the Contractor shall treat as strictly confidential all such information obtained during the performance of the commission and do everything possible to maintain this confidentiality even after completion of the commission.

10. **Insurance** Both parties undertake to insure their public liability adequately and to a sufficient extent with an insurance company recognized in Belgium and to produce proof thereof at the simple request of the other party.

11. **Applicable Law** Unless expressly agreed otherwise, all commissions undertaken by the Contractor shall be governed by Belgian law. If any one or more provisions of these General Conditions are found to be illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

12. **Jurisdiction** Any possible disputes between the Contractor and the Principal shall be settled amicably by the parties. Failing an amicable settlement, the matter shall be submitted to the Courts of Antwerp (Belgium), which shall have exclusive jurisdiction.

They have been drawn up in Dutch and translated into French, English and German. In case of discrepancies, the Dutch text shall prevail.