

ARTICLE 1 - APPLICABILITY

- 1.1. The arrangement of the relation between client and advising engineers, further to be referred to as R.V.O.I.-1987, shall apply to all tenders, offers and written and/or verbal agreements and any agreements with client based thereon, as well as in derogation of and/or in addition to the former, these general terms and conditions. In case of difference between the general terms and conditions and the A.R.C.E conditions, these general terms and conditions shall prevail.
- 1.2. Commissionee declares to have accepted this instruction and to have presented a copy of the above-mentioned A.R.C.E conditions – 2001 arrangement, as well as of these general terms and conditions, to client.
- 1.3. It is explicitly agreed and understood that any possible conditions or stipulations, applied by the client, of whatever nature, even if priority is stipulated in those conditions or stipulations, shall be excluded. Commissionee explicitly rejects the applicability of the client's general conditions that deviate from these general terms and conditions. If, on its acceptance, client refers to its own conditions, commissionee shall not be bound by them.
- 1.4. If any stipulation of these terms and conditions appears to be void as the occasion arises, the other stipulations of these terms and conditions shall remain unimpaired. In addition, such a non-operative stipulation should be converted into a stipulation to the same possible effect, being operative at any rate.
- 1.5. If and as soon as client has agreed on the applicability of the A.R.C.E. conditions and these terms and conditions with commissionee, client is supposed to have agreed on the applicability of the A.R.C.E. conditions and these terms and conditions at later tenders, agreements and/or instructions as well, though applicability of these conditions is not explicitly mentioned.

ARTICLE 2 - OFFERS

- 2.1. Unless mentioned in writing, all tenders shall be submitted without prejudice and subject to contract.
- 2.2. Unless mentioned in the offer, the offer shall be in force during 10 days.
- 2.3. Commissionee can still withdraw the offer until 8 days after acceptance by client. Then neither of the two parties are bound.
- 2.4. The documents forming part of the offer (such as drawings, technical descriptions and the like) shall be made as accurately as possible, but they shall not be binding and shall remain the intellectual property of commissionee. It is not allowed to use, to copy or to submit them to third parties or to publish them in other ways, without permission by client.
- 2.5. If client does not accept the tender, client shall be obliged to immediately return to commissionee all details referred to in the previous article.
- 2.6. Commissionee is entitled to charge the expenses incurred with respect to submitting the offer, unless commissionee has informed client of these expenses in writing in advance.

ARTICLE 3 - CONCLUSION AND CHANGES

- 3.1. The agreement shall be irrevocable:
 - a. by sending a written confirmation of order stating start of the activities by commissionee;
 - b. in the event of absence of a written confirmation of order stating the start of the activities by commissionee.
- 3.2. Changes of the instruction after the agreement has been concluded, should be notified by the client on time and in writing.
- 3.3. The client shall at all times be entitled to terminate the agreement or an instruction without notice of default and/or judicial intervention, by means of a single notification in writing to commissionee, 21 calendar days before the date at which the agreement or an instruction shall then be terminated.
- 3.4. In the event of premature and/or early cancellation of a placed order by client, the hours already worked shall be invoiced, as well as a rate of 25% of the remaining outstanding order amount.
- 3.5. Changes of the instruction shall not be in force until client's acceptance and as from client's acceptance thereof in writing.
- 3.6. In case of more work than was agreed on by the agreement, this additional work shall be executed under the same conditions as was originally agreed on.

ARTICLE 4 – PRICES

- 4.1. The instruction given to commissionee shall be executed on the basis of the time to be spent on the instruction related to the usual hourly rates to be charged by commissionee. The costs incurred by commissionee in connection with the instruction, shall always be charged separately. The fee is due as the work shall have been carried out by commissionee. The fee may be charged prematurely.
- 4.2. Keeping up to date of the working hours by the commissionee shall be decisive for their correctness, subject to the client's authority to provide proof to the contrary.
- 4.3. Unless agreed otherwise, commissionee is authorized to demand provisional and/or partial payment of maximally 50% for carrying out the work agreed on. Unless agreed on otherwise, the commissionee is authorized to charge, in addition to the prices agreed on, expenses to client relating to additional work or delay of carrying out the work through no fault of commissionee.

- 4.4. Unless mentioned otherwise, all prices are exclusive of turnover tax (VAT).

ARTICLE 5 - EXECUTION

- 5.1. Commissionee shall execute the agreements with the carefulness and expertise that may be reasonably required.
- 5.2. The goods and services can be delivered and performed by commissionee in consignments and in parts. The provisions of Article 4, paragraph 1, of this agreement shall be applied accordingly.

ARTICLE 6 - FORCE MAJEUR

- 6.1. If, as a result of force majeure, commissionee is absolutely not or partly or only after a delay, able to execute the agreement, client should give commissionee the option, without this leading to a right to damages, either to dissolve the agreement by its own initiative, or to state the period within which the commissionee should cure its breach. The latter period should be reasonable under all circumstances, which shall be a period of three months anyway. Client shall not be entitled to dissolve the agreement until this period has expired, after having given notice of default to commissionee in writing.
- 6.2. The term "force majeure" shall also be understood to mean each circumstance beyond the commissionee's control, as a result of which the normal execution of the agreement is prevented. The circumstances leading to such force majeure apply at all events to a long illness of the one who has been appointed by commissionee to execute the agreement, strikes, supplies of energy, traffic jams, very bad weather, measures by the government, as well as unforeseen circumstances concerning personnel and/or material which the commissionee makes or is used to make use of when executing the agreement, being of such a nature that execution of the agreement shall be impossible or disproportionately problematic and/or expensive for commissionee.

ARTICLE 7 - PAYMENT

- 7.1. Unless explicitly agreed on otherwise, payment should be effected within 15 days after date of invoice by paying into a bank or giro account to be indicated by commissionee.
- 7.2. Client shall never be entitled to any settlement, discount or suspension.
- 7.3. The commissionee's office shall be used as place of payment.
- 7.4. When paying, the amount paid shall in the first instance serve to settle any possible interest and collection costs due, as provided for in Article 12 of these terms and conditions. Commissionee shall always be entitled to settle outstanding debts with payments to be paid by commissionee for whatever reason.

ARTICLE 8 - LIABILITY

- 8.1. Commissionee carries out the work to the best of its ability without guaranteeing, however, that any intended result by client, shall be reached.
- 8.2. Without prejudice to Article 16 of R.V.O.I.-1987, any of commissionee's liability shall be limited to the amount that is paid in the case in question, pursuant to the liability insurance taken out by the commissionee, up to an amount that is not exceeding the amount to be payable by client pursuant to this agreement (the instruction sum).
- 8.3. If the execution of the agreement in question and/or the agreement based on it, lasts longer than two months, the commissionee's liability shall be limited to the (average) amount (the average number of hours/the average number of instructions) that was payable to commissionee by client over two months.
- 8.4. Commissionee shall never be liable for any consequential damage or loss, property damage or pure financial loss such as discontinuation damage or loss of profits and/or any comparable damage. Besides, commissionee shall never be liable for any losses due to delays, damage due to exceeding periods and damage due to providing insufficient cooperation, information or materials by client or by third parties.
- 8.5. In the event of a secondment agreement being concluded between client and commissionee or if commissionee carries out work on a cost-plus basis under the client's management and supervision, the client itself shall be liable for the damage being due to the commissionee's failures.
- 8.6. Commissionee shall not be liable for failures of third parties. Client indemnifies commissionee against claims from third parties in the broadest sense of the word, among which, among other things: breach of rights of third parties and application or use of results by client and/or third parties and insurers taking recourse.
- 8.7. Concerning the liabilities mentioned in these general terms and conditions and applicable to client, client undertakes to take out an adequate insurance.
- 8.8. If and in so far as commissionee carries out work for client concerning the definite process technological design/development in its definite design phase, every liability for damage in the broadest sense of the word, shall be excluded, unless it is a matter of gross negligence or intention. Client is obliged to take out a C.A.R-insurance or another insurance considered its equivalent.
- 8.9. In the event of commissionee's liability, commissionee shall be entitled,

at its option, to remedy the failure or to credit client with regard to the invoices in this matter, in accordance with the above-mentioned provisions.

8.10. If and in so far as commissionee carries out work outside the Benelux and Germany, commissionee shall not be liable for damage in the broadest sense of the word, unless it is a matter of gross negligence or intention.

8.11. Commissioner shall not be liable for damage, in the broadest sense of the word, relating to the so-called cyber risks, at which data traffic is disorganised through (communication)network, such as for example Internet and information carriers, data, infrastructure and/or equipment are damaged, get lost or are no longer accessible due to hacking, tension, breaking of securities, denial of services, spreading of computer viruses etc..

8.12. Commissioner shall not be liable for damage in the broadest sense of the word, being a result of damaging or the loss of electromagnetic and/or optically stored data.

8.13. Commissioner shall not be liable for damage because, when or by applying the results of its work, third-party rights are violated in the broadest sense of the word.

8.14. Calling in third parties for the execution of an instruction, requires permission by client, if and in so far as this shall cause foreseeable risk with regard to secrecy. The liability arrangement of Article 8 shall be applicable to the work to be carried out by third parties and shall mutatis mutandis also apply for the benefit of these third parties.

ARTICLE 9 - COMPLAINTS AND DUE PERIOD

9.1. Claims by client against commissionee arising from or which are otherwise related to the agreement, shall lapse completely if such claims shall not have been explicitly expressed to commissioner in writing within one year after date of invoice.

9.2. Claims about invoices should also be submitted to commissionee in writing within 14 days after date of invoice.

9.3. When exceeding the periods mentioned in 9.1 and 9.2, every claim to observance and/or damages, shall lapse.

9.4. If requested, client should immediately provide all the information required by commissionee that could reasonably be of importance for determining the liability and the (extent of the) damage, as well as allow every inspection required by commissionee, this at the risk of every claim to damages lapsing.

9.5. Claims do not hold over the client's payment obligations.

9.6. Client shall be obliged to provide commissionee with all relevant information that it is familiar with and which may be useful for the execution of this agreement. Relevant information is understood to mean, among other things: older similar matters, important events, applications and publications submitted by third parties referring to the same field. Client shall indemnify commissionee against possible liability for damage from third parties, which was caused by providing the wrong information. If commissionee submits to client written and/or digital documents for approval and to be commented on, it shall be the client's duty to check the document on incorrectness and inaccuracies, also with regard to the technique dealt with therein.

ARTICLE 10 – USE OF THE RESULTS OF ACTIVITIES

10.1. It shall not be allowed for client to fully or partly publish or to reveal in another way, or to give to third parties for inspection, or to use the reports/recommendations on the activities issued by commissioner, without previous permission of commissioner in writing and it shall not be allowed for client to use the commissioner's name in connection with its activities. If commissioner gives this permission, this shall be attached to the condition that, unless otherwise agreed on in writing, client/third parties shall not use the results of the work as such that this shall negatively affect or shall be contrary to the correctness or the essence of its results.

10.2. It is not allowed for client to completely or partly repeat performance of the commissioner's results/recommendations or a part of them, without commissioner's explicit permission. Commissioner is authorised to attach conditions to giving permission, among which payment of a fee to commissioner.

10.3. The client obtains a non-transferable right of use to the documents issued to the client and the results of the activities made known, provided that all industrial and intellectual property rights (among other things, copyrights, patents, drawings and models) concerning the work and its results, shall exclusively belong to commissionee and that commissionee shall have the exclusive right to possibly file patent applications in its own name in this matter. If requested, client shall be obliged to give any assistance to commissionee in processing the application.

10.4. Client shall be given an opportunity to obtain the right of exclusive use at a fee agreed on in the confirmation of order over a period agreed on in the confirmation of order. During this period agreed on, these findings/results/recommendations shall not be offered by commissionee to similar companies such as that of client. After this right of use period, a licence can be obtained from commissionee; however, in that case the right of exclusive use shall lapse.

10.5. All results, reports, recommendations, sketches, drawings and software are exclusively meant to be used by client in accordance with

aim/agreement in question.

10.6. Provision of the aforementioned results shall take place on the explicit condition that client shall not use/change/add the results of the work as such that this shall negatively affect or shall be contrary to the correctness or essence of those results.

Commissioner shall not be liable to client and third parties in this matter.

10.7. Commissioner shall not be liable for wrong use or wrong interpretation of the work carried out.

10.8. Client undertakes to secrecy of the information that shall come to his/its attention about the commissionee's company or management.

ARTICLE 11 - RETENTION OF TITLE

Commissionee shall retain the right of ownership of all the goods that commissionee shall put at the disposal of client within the framework of the instruction to client, such until the moment at which (the) amount(s) payable to commissionee by client, shall have been paid in full.

ARTICLE 12 - NON-PERFORMANCE BY CLIENT

12.1. Client shall be in default without a notice of default being necessary, if client fails to provide commissionee an opportunity to carry out the work agreed on or if he/it shall not pay on time in accordance with the provisions in Article 7. In that case the client shall be due the current statutory trading interest on (the unpaid part of) the invoice amount, counting from the date of invoice.

12.2. Client shall also be in default without any warning or notice of default being necessary, if a petition for his/its bankruptcy/liquidation is filed or if he/it is granted a moratorium of payment, if the client discontinues his/its business activities or changes his/its type of undertaking, as well as in the event of his death or, if the client is a company, in the event of its dissolution. In that case all commissioner's claims on client, shall be immediately due and payable and the provisions referred to in Article 12 of these terms and conditions shall be in force.

12.3. In the event of default, the client shall also be due, in addition to payment of the other damage, all court and extrajudicial charges (among which the costs attaching to calling in third parties for collection), as well as other possible financial loss as referred to in Article 6:96 Civil Code. These costs are minimally 15% of (the unpaid part of) the invoice amount.

12.4. In the event of default on the part of client, commissioner is authorized to dissolve the agreement by means of a written statement to client, even if commissioner had initially suspended the performance of his/its obligations. This shall not affect the right to full compensation of all damage incurred by commissioner.

ARTICLE 13 - SAFETY

13.1. If (employees of) commissioner or third parties called in by commissioner, carry out work completely or partly at locations allocated by client, client shall see to it that the safety rules being in force there, shall be made known on time and clearly to (the employees of) commissioner, respectively, the third parties called in by commissioner. These employees, respectively, third parties, are obliged to observe the rules.

13.2. If the rules laid down by commissioner with regard to personal safety go beyond the rules laid down by the client in this matter or if the employees of commissioner or the third parties called in by commissioner, are of the opinion that additional safety measures should be observed on-site, they are authorized to follow the rules laid down by commissioner, respectively, authorized to observe these additional safety standards. If, in the opinion of the employee of the commissioner or the third parties called in by him, the situation is as such that the work cannot be carried out in a safe way and client shall not be able or willing to take adequate measures, the commissioner shall be authorized to suspend the agreement completely or partly or to dissolve it, without the client therefore being entitled to damages against commissioner.

ARTICLE 14 - AUTHENTIC VERSION

Only the Dutch version of these terms and conditions is authentic.

ARTICLE 15 - DUTCH LAW IS APPLICABLE

15.1. Dutch law is applicable to the agreement in question and the agreements based thereon.

15.2. Disputes shall be submitted for arbitration to the competent court in the Maastricht district.

Bemelmans, Nicolaas Marie Jozef, sworn translator for the Dutch and English language, registered as such in the Maastricht district court on 9 July 1991, hereby certify that the above is a true translation from the Dutch language into the English language of the attached text.

Eijsden, 18 June 2004.