

# General Conditions SGS Nederland B.V. with Consumers

## 1. SCOPE OF APPLICATION AND BINDING FORCE OF THE GENERAL CONDITIONS

1.1 Assignments and orders for works, services and supplies (hereinafter the "Assignments") shall be accepted and carried out by SGS Nederland B.V. (hereinafter the "Supplier") only on the basis of an agreement concluded under these general conditions (hereinafter the "General Conditions"), unless there is an explicit deviation from these by means of a written agreement with the Supplier. If the parties explicitly deviate from these General Conditions or part thereof in writing for one or more specific Assignments, these General Conditions shall remain in force between the parties for the remaining provisions and for previous or subsequent quotations, Assignments and agreements.

1.2 These General Conditions shall be deemed to have been accepted by every natural person acting for purposes outside his trade, business, craft or professional activities, who grants Assignments to the Supplier (hereinafter referred to as the "Consumer") and was able to acknowledge these General Conditions prior to the conclusion of the agreement, and shall be deemed, without prejudice to Article 1.4, to govern all relations between the parties, not only with regard to the Assignment for which the General Conditions are declared applicable, but also with regard to all subsequent quotations, Assignments and agreements. To the extent that provisions in these General Conditions conflict with mandatory consumer law, the statutory consumer rights shall prevail and the relevant provisions shall not be applied.

1.3 These General Conditions apply to all services assigned by the Consumer to the Supplier and accepted by the Supplier, including, but not limited to, activities such as inspection, analysis, verification and related services and products, and the documents relating thereto drawn up by the Supplier as a result of his activities, regardless of the name of the record, report, certificate, attestation, etc. (hereinafter the "Records").

1.4 Without prejudice to Articles 1.1 to 1.3 inclusive, the Supplier and the Consumer may agree in writing special conditions that more specifically determine the services assigned to the Supplier and supplement these General Conditions (hereinafter the "Special Conditions"). If any provision of these General Conditions conflicts with any provision of the Special Conditions, the provision of the Special Conditions shall prevail.

1.5 All restrictions on the content of the obligations or on the liability of the Supplier are also stipulated for the benefit of the corporate bodies, employees, agents and subcontractors of the Supplier and legal entities belonging to the same group.

1.6 If the agreement is concluded at distance within the meaning of Article 6:230g of the Civil Code (hereinafter: CC): (i) the Consumer is only bound by the agreement if the information required by Article 6:230m CC has been provided to the Consumer and (ii) the Consumer has, except in cases where this is excluded by law (Article 6:230p CC), a period of 14 days to revoke the distance agreement without stating reasons and without having to bear costs other than those stated by law (Articles 6:230r and 6:230s CC). The period starts to run in accordance with the statutory provisions (Article 6:230o paragraphs 2 and 3 CC). The legal consequences of the withdrawal are the ones determined by law (Articles 6:230r and 6:230s CC). In the case of such a distance agreement, the Supplier shall provide the Consumer with confirmation of the concluded agreement on a durable medium within a reasonable period of time after the conclusion of the agreement, and at the latest upon delivery of the goods or before the performance of the service begins.

## 2. SCOPE OF THE ASSIGNMENT

The acceptance of an Assignment by the Supplier shall exclusively bind the Supplier to that Assignment, and shall not bind him to accept subsequent Assignments or to execute subsequent Assignments subject to the same General and/or Special Conditions

(including the price), unless the Special Conditions of the earlier agreement explicitly provide otherwise.

## 3. CONTENT AND TERMS OF THE SUPPLIER'S COMMITMENT

### 3.1 Applicable specifications

The Supplier shall perform the work with all reasonable care and skill and in accordance with the agreed Assignment and/or the specific instructions agreed between the Consumer and the Supplier. In the absence of such instructions, the Supplier shall act in accordance with (i) the relevant trade custom, usage or practices; and/or (ii) the methods which the Supplier deems appropriate on the basis of technical, operational and/or financial motives.

### 3.2 Documents

Documents that the Supplier would receive regarding the legal relationship between the Consumer and third parties or other documents of third parties, such as (copies of) purchase or work contracts, letters of credit, transport documents, etc., are only considered as information, without extending or limiting the scope of the services or obligations as agreed between the Consumer and the Supplier or as determined in accordance with Article 3.1 above.

### 3.3 Outsourcing of Assignments

The Supplier is authorised, whether at the Consumer's request or not, to conclude an agreement with a third party at the Consumer's expense for the execution of the Assignment.

### 3.4 Suspension of execution

The obligations under the agreement may be suspended by both parties, to the extent and for as long as the statutory requirements are met.

### 3.5 Storage of samples

The Supplier shall not be obliged to store samples, unless this has been expressly agreed, and then only during the agreed period. In the absence of such an agreed storage period, the Supplier shall be entitled to destroy the samples or have them destroyed.

### 3.6 Content and scope of the Records

The Records are drawn up on the basis of (i) the Supplier's models and (ii) the facts, circumstances, documents and/or samples supplied by or in the name of the Consumer or reasonably determined by the Supplier at the time of the intervention and (iii) within the agreed limits set by Article 3.1. The Supplier shall not be obliged to refer to or record any facts or circumstances that fall outside the agreed Assignment. Any update of a Record does not form part of the Assignment and assumes that an additional Assignment has been agreed to that end.

The Records that are drawn up due to the analysis of samples only contain the Supplier's opinion on these samples and not on the batch from which these samples originate.

If the Supplier witnesses an analysis of samples at the premises of the Consumer or of a third party, the Assignment of the Supplier is limited to confirmation that the sample in question has been analysed, and the Assignment does not extend to

among other things, the accuracy of the analyses, the results or the equipment used.

The Supplier shall not be liable to the Consumer or to third parties for any inaccuracies in the communications or Records that are caused by the inaccuracy, the lack of clarity or the misleading nature of the information provided to the Supplier.

### 3.7 Use of the Records by the Consumer

Unless otherwise agreed in writing, the Records are always exclusively addressed to the Consumer himself and are not addressed to third parties. It is solely the Consumer's own responsibility to decide whether or not any action may or must be taken on account of the findings made.

If the Consumer brings a Record to the attention of a third party, this must always be presented in its entirety and only be presented in the context thereof, and it may not be presented as a statement by the Supplier to that third party.

The Supplier shall not be liable to the Consumer or to third parties for any actions/decisions taken or omitted by the Consumer or third parties on the basis of the Records.

### 3.8 Scope of the obligation of the Supplier

The Supplier's obligation to perform the services is a best-efforts obligation and is limited by the restrictions specific to the subject matter of the Assignment, the restrictions imposed by an authority that can reasonably be assumed to be so empowered, and the restrictions resulting from an event beyond the Supplier's reasonable control. The Supplier can therefore not be held liable for the total or partial non-execution of its Assignment as a result of any of these restrictions or events, including the Consumer's failure to comply with his own obligations under the agreement (these General Conditions included).

The Supplier does not act as an insurer, nor as a guarantor regarding the characteristics of the products, services, data, processes or activities of the Consumer to which the services relate.

### 3.9 Transfer of risk

If the agreement includes a delivery of goods by the Supplier, the storage of those goods pending delivery or collection shall be at the Consumer's risk. The risk relating to those goods shall pass to the Consumer Ex Works (Incoterms 2020), irrespective of whether or not ownership is retained.

### 3.10 Limitation of liability

The liability of the Supplier is limited per Assignment to ten (10) times the amount invoiced for the execution of the Assignment, with a maximum of thirty thousand (30,000) euros. This limitation of liability does not apply in the event of claims for compensation resulting from death or personal injury, or where the damage is the result of intent or willful recklessness on the part of the Supplier.

### 3.11 Limitation period

Any claim of the Consumer against the Supplier shall be time-barred two (2) years after the fact on which the claim is based.

## 4. OBLIGATIONS OF THE CONSUMER IN CONNECTION WITH THE EXECUTION OF THE ASSIGNMENT

### 4.1 Information obligation for the execution of the Assignment

The Consumer must provide the Supplier with full and clear instructions and communications regarding the

Assignment in a timely manner and in writing. The

Consumer shall ensure that the Supplier is provided with correct and complete instructions and communications. The Consumer shall inform the Supplier in advance of all known, actual or potential hazards in connection with an Assignment or the samples or the tests, including for example the risk of radiation, toxic, harmful or explosive elements or materials, environmental pollution or poison.

### 4.2 Permits

The Consumer must ensure that the Supplier obtains all permits necessary for the execution of the Assignment, including those for access to the locations, with the exception of the permits that the Supplier is deemed to have at its disposal by virtue of its activities.

### 4.3 Obstacles or interruptions

The Consumer must take all necessary steps to prevent or remedy obstacles to, or interruptions in, the performance of the Assignment.

### 4.4 Measures and facilities

The Consumer will take all measures and provide the Supplier's employees with all the necessary facilities, so that they can carry out their Assignments properly, responsibly and safely.

### 4.5 Storage of the material of the Supplier

The Consumer will ensure that the material belonging to the Supplier is stored in an appropriate, adequate and locked place.

## 5. PRICE, TERMS, PAYMENT AND SECURITIES

### 5.1 Determination of the price

The price is expressly agreed for one or more specific Assignments, subject to adjustment in accordance with the revision clauses in the Special Conditions, provided that if the Supplier increases the price within 3 months of the conclusion of the agreement, the Consumer shall be entitled to dissolve the agreement.

The following are not included in the base price, and are therefore subject to a surcharge or additional invoicing:

- a. the surcharge for the performance of services outside normal working

- hours, such as e.g. on Saturdays, Sundays and public holidays;
- b. the cost of waiting time caused by the Consumer, in accordance with the applicable price rate, to the extent that the Consumer is liable therefor under applicable law and regulations; and
- c. in connection with the samples (i) the storage costs (storage fee) if storage has been agreed, (ii) the handling and freight charges if the samples are returned, and (iii) the costs of destruction unless these are already included in the price.

#### *5.2 Compensation in the absence of full performance of the Assignment*

If the intended service or part thereof cannot be provided due to an event beyond the Supplier's reasonable control, including the Consumer's failure to meet its own obligations under the agreement, the Supplier will still be entitled to payment of (i) the amount of all non-recoverable expenses incurred by the Supplier; and (ii) the part of the agreed fee in proportion to the services actually performed.

#### *5.3 Terms of payment - due and payable character*

All invoices of the Supplier must be paid by the Consumer without delay, unless a term of payment has been expressly granted.

#### *5.4 Rights of the Supplier in the event of failure to pay on time*

- a. In the event of failure to pay on time, the Consumer shall be in default by operation of law and without prior notice of default. Nevertheless, after the expiry of the payment period referred to in Article 5.3, the Supplier shall send one free-of-charge reminder, drawing the Consumer's attention to his default and still giving him the opportunity to pay within two (2) weeks of receipt of this reminder.
- b. The Supplier may charge interest on any payment not made on time, from the expiry of the payment period referred to in Article 5.3 until the date of receipt of the amount due. This interest shall be equal to the statutory interest rate as referred to in Article 6:119 of the Civil Code.
- c. After expiry of the two (2) week period referred to under (a), the Supplier shall be entitled to proceed to collect the amount owed without prior notice of default. If the Supplier proceeds to do so, the associated

(extra-)judicial costs in accordance with Article 6:96 of the Civil Code shall be borne by the Consumer.

#### *5.5 Retention of title*

If the agreement includes a delivery of goods by the Supplier, these goods will remain the property of the Supplier until full payment of the price of those goods and all accessories and of all other due and payable debts of the Consumer.

#### *5.6 Seizure or Concurrence of rights*

In the event of a seizure against the Consumer or any other form of concurrence of rights between the Consumer's creditors, the Supplier shall be entitled to settle all current agreements with the Consumer prematurely on that date and to apply set-off.

### **6. OTHER OBLIGATIONS OF THE CONSUMER**

#### *6.1 Indemnification*

The Consumer undertakes to indemnify the Supplier against all possible claims by third parties against the Supplier, to the extent that the Consumer is liable therefor under applicable law and regulations. This also includes claims by third parties based on the Supplier's alleged infringement of the intellectual rights of that third party through the use of the information provided by the Consumer.

#### *6.2 Trademark/Logo of the Supplier*

The Consumer is prohibited from affixing, using or copying any trademark or logo of the Supplier, unless the Supplier has given prior written permission to do so and with strict observance of the conditions imposed in that respect by the Supplier. In the event of a copy, the trademark and/or logo must be applied to all documents on which it has been applied by the Supplier himself.

### **7. OBLIGATIONS COMMON TO BOTH PARTIES**

#### *7.1 No disclosure*

Without the prior written consent of the other party, neither party shall be entitled to make public, or cause to be made public, any communications in connection with the Assignment other than that it exists.

#### *7.2 Confidentiality*

The Consumer and the Supplier shall treat all confidential information exchanged in the context of the execution of the Assignment as strictly confidential and make every effort to maintain this confidential nature. This obligation does not apply if this information (i) was already publicly known or in the possession of the other party at the time of disclosure, (ii) became public other than as a result of an attributable failure of the party that received the relevant information from the other party, (iii) had already been developed by the receiving party independently of the information received by it under the Assignment, (iv) is available from a third party without that third party being in breach of any duty of confidentiality to the disclosing party through disclosure to the receiving party, (v) is required to be disclosed or made public by applicable law or regulation, or (vi) is used by a party for its legal defence.

This obligation also applies after the termination of the Assignment but is then limited to a term of three (3) years.

#### *7.3 Protection of personal data*

Personal data exchanged within the framework of the Assignment may only be used within the framework of the Assignment and in compliance with the General Data Protection Regulation. Both parties undertake to take the appropriate measures to secure these data and their processing, so that access to it only takes place in accordance with the said Regulation.

The transfer of personal data to a country outside the EU is only allowed after a prior agreement has been concluded between the exporter and the importer of these data containing the standard clauses approved by the European Commission on the protection of these personal data.

#### *7.4 Transfer of rights and obligations*

With the exception of the provisions of Article 3.3 above, neither party may transfer its rights and obligations under the agreement to third parties without the prior written consent of the other party. Legal entities belonging to the same group as one of the parties shall not be regarded as third parties for this purpose.

## 8. EXPLICIT RESCISSION CLAUSE

The fulfilment of the obligations set out in Articles 3.7 and 4 and the punctual payment of the amounts invoiced by the Supplier in accordance with the agreed terms of payment constitute the essential elements of the agreement. In the event of a breach of one or more of these obligations, a party may (i) rescind the agreement for breach of contract provided that the defaulting party has been notified of the default in writing and has been given a reasonable period within which to remedy it, unless rescission without notice of default is permitted by law, or (ii) opt for further performance of the agreement. In the event that a choice is made for further performance, the Supplier shall be entitled to charge the price for the additional services provided by the Supplier as a result of that shortcoming. Even if the agreement is not rescinded, the Supplier shall be entitled to suspend all performances in accordance with Article 3.4 and to payment of all costs due by virtue of Article 5.

## 9. DIVISIBILITY

Should one or more provisions of these General Conditions be void or voidable, the validity or enforceability of the remaining provisions shall in no way be affected or impaired thereby. The void or voidable provision will be replaced by the valid and enforceable provision that corresponds most closely to it.

## 10. APPLICABLE LAW

Unless mandatory rules or an expressly contrary agreement indicate a different law, only Dutch law shall apply to the agreement and all related Assignments.

## 11. JURISDICTION

Disputes between the Supplier and the Consumer shall be submitted to the competent court of the Consumer's place of domicile. The Consumer may also choose to submit the dispute to the District Court of Rotterdam. These General Conditions have been drawn up in Dutch and translated into English. In case of discrepancies, the provisions of the Dutch text shall prevail.