

## GENERAL TERMS AND CONDITIONS OF ESTHEC B.V. AND ITS AFFILIATES

### AGREEMENTS GENERAL

#### 1. DEFINITIONS

In these General Terms and Conditions (hereinafter also referred to as "Terms and Conditions"), the following definitions apply:

- "Esthec": Esthec B.V. or a company affiliated to it;
- "Counterparty": the counterparty to a contract with Esthec;
- "Agreement": the written agreement, with annexes, concluded between Esthec and the Counterparty, or the order confirmation issued under that agreement, including these Terms and Conditions, which are deemed to form part of the Agreement;
- "Services": any service, such as contracted work, fitting or installation work, technical assistance, inspection, advice, repair or maintenance work to be provided by Esthec, regardless of whether this has (partly) been agreed under an agreement to deliver Goods and regardless of the name given to the Services;
- "Goods": all goods that Esthec is contractually obliged to deliver. This also includes software and/or hardware, spare parts, certificates and/or documentation that is/are required for the proper performance of the Agreement;
- "Completion certificate": the document prepared and signed by both parties, which will serve as proof that the Goods delivered and/or the Services performed have been found to be in compliance with the Agreement;
- "Delivery": the delivery of Goods, in accordance with what the parties have stipulated in the Agreement;
- "Performance": the performance of Services and/or the Delivery of Goods by Esthec;
- "Contract Price": the price payable to Esthec under the Agreement in connection with the Delivery of Goods and/or the performance of Services. The price for any additional work and/or additional deliveries will also be referred to as Contract Price (as 'extra charge' or otherwise);
- "Personnel": all personnel employed directly or indirectly by Esthec and/or hired by Esthec, including representatives of Esthec;
- "Products": Goods or Services supplied by Esthec;
- "Work": Services performed by Esthec that qualify as contracting of work ('aanneming van werk') as defined in Article 7:750(1) of the Dutch Civil Code;
- "Tools": tools to be used by Esthec for its Services;
- "Consumables": resources to be used up by Esthec for its Services.

#### 2. GENERAL

- 2.1 These Terms and Conditions and the Agreement may be amended and supplemented only if such an amendment or supplement is expressly agreed in writing.
- 2.2 The Agreement supersedes all previous verbal and written agreements or undertakings regarding the subject matter of the Agreement.
- 2.3 Any offer by Esthec will be entirely without obligation and should be regarded as an invitation to negotiate.
- 2.4 The Agreement is entered into under the condition that the Counterparty has obtained all applicable export licences and other permits.
- 2.5 The documentation accompanying offers is of a purely informative nature and no obligation can be derived from it.
- 2.6 The Agreement will only come into force after an authorised representative of Esthec accepts the Counterparty's order in writing, or makes a start with its performance without reservation.
- 2.7 The contents of the Agreement will be evidenced by Esthec's written confirmation, subject to proof to the contrary.

#### 3. COUNTERPARTY'S OBLIGATIONS TO COOPERATE

- 3.1 The Counterparty guarantees that Esthec can commence Performance of the Agreement immediately after the arrival of the Goods and/or Personnel and can continue without interruption or hindrance. Before the Goods and/or Personnel arrive, Counterparty will already have made all necessary arrangements – irrespective of whether these have been expressly agreed upon – so that Performance can commence on the agreed date and be continued and completed thereafter without interruption or hindrance.
- 3.2 The Counterparty will provide temporary import and outward clearance for the Tools and/or Consumables to be used by Esthec for its work and/or Services.
- 3.3 The Counterparty hereby grants Esthec unconditional power of attorney to carry out the outward clearance (or have it carried out) on behalf of the Counterparty if the Counterparty does not cooperate in outward clearance within 100 calendar days after being requested to do so in writing.
- 3.4 If the Counterparty does not cooperate in the outward clearance of the Tools within 15 working days after being requested to do so in writing, it will also forfeit an immediately exigible penalty of EUR 500.00 for each calendar day that no cooperation is provided, to a maximum of EUR 35,000.00 per violation. Esthec may, at its sole discretion, claim full damages.

#### 4. DELAY

- 4.1 All (additional) costs incurred as a result of a delay attributable to the Counterparty will be borne by the Counterparty.
- 4.2 Waiting time for which Esthec is not responsible will be charged to the Counterparty as time worked.
- 4.3 If Esthec fails to perform the Agreement in good time and the cause can be attributed solely to Esthec, the Counterparty will grant Esthec two working weeks' grace. After that grace period, the Counterparty will be entitled to claim fixed compensation in the amount of 0.5% of the value of the delayed Goods for each full working week that the delay continues (i.e. excluding days that are not working days). The amount of such fixed compensation will under no circumstance exceed 5% of the total value of the delayed Goods and will only be due if the Counterparty can prove that the damage is attributable to the delay, and the extent of the loss suffered can be proven accordingly. The Counterparty will not be entitled to additional reimbursement of costs or damages and, for the delay, the Counterparty will therefore only be able to claim this fixed compensation, which qualifies as a penalty under Article 6:91 of the Dutch Civil Code. Any other compensation for loss due to delay or delay costs is expressly excluded.
- 4.4 If an event occurs, whether or not foreseeable, that is reasonably beyond the control of Esthec or its suppliers, as a result of which Esthec cannot duly fulfil its obligations under the Agreement ('force majeure'), these obligations will be suspended for at least the duration of the force majeure situation. In particular, force majeure includes, but is not limited to: shortage of raw materials, fire, acts of war or similar acts, riots, insurrection, mobilisation, floods, earthquakes and other natural disasters, pandemics, epidemics, quarantine measures, strikes, lockouts, requisitioning, restriction imposed by authorities, restriction of international payment, transport restriction and/or restrictions in the granting of permits.
- 4.5 All costs incurred by Esthec as a result of the circumstances mentioned in Article 4.4 will be payable by the Counterparty.

#### 5. PRICES

- 5.1 All prices are exclusive of VAT and other government taxes and/or levies and are based on the level of wage costs, national insurance contributions and government charges, storage and transport costs and insurance premiums, raw material and other costs applicable at the time of entering into the Agreement.
- 5.2 In the event of a periodically agreed payment obligation on the part of the Counterparty, Esthec will be entitled to increase prices and rates annually on the basis of the price index figures (the service price index) as determined and published by Statistics Bureau Netherlands ('CBS'). The base year for the service price index is 2010 (2010=100). In addition, Esthec will be entitled (either together with the annual increase or in the interim) to adjust the applicable prices and rates in writing within a period of at least 3 months. If the Counterparty does not wish to agree to a non-periodically agreed (interim) rate adjustment and/or in case of a periodically agreed payment obligation, and/or if the rate adjustment results in a higher price/rate than after adjustment taking into account the service price index, the Counterparty will be entitled to terminate the Agreement in writing within 30 calendar days after the Counterparty has taken note of the price change, or could have taken note of it, by the date on which the change would take effect. Esthec will under no circumstances be obliged to pay any costs and/or compensation.

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- 5.3 Esthec will notify the Counterparty in writing of any price increases.
- 5.4 Standard packaging is included in the price. Special packaging will be charged to the Counterparty.
- 5.5 At the Counterparty's request, Esthec will carry out any changes to the order indicated by the Counterparty, provided they are reasonably executable and with the right to charge extra.
- 6. DELIVERY AND DELIVERY TIME**
- 6.1 Esthec will make every effort to meet the agreed delivery time. Delivery times agreed with Esthec will serve as an indication and not as a deadline, unless expressly agreed otherwise. Exceeding delivery times will not entitle the Counterparty to additional or substitute damages or non-performance by the Counterparty of any of its own obligations under the Agreement. After a reasonable grace period agreed in writing has also not been met by Esthec, the Counterparty will have the option of terminating the Agreement by registered mail within 14 calendar days after it has become known that Esthec will not deliver in good time. The delivery time will start after the conclusion of the Agreement, after Esthec has received all the items, documents and data to be provided by the Counterparty and after any advance payment that may have been agreed has been received by Esthec or sufficient security for payment has been provided for Esthec. In the event of Esthec installing Products supplied by it and produced by it or third parties, as well as repair or maintenance work, Esthec will only be obliged to commence its work after the Counterparty has fulfilled its obligations as referred to in Article 14.
- 6.2 Delivery times have been determined on the basis of data provided to Esthec by the suppliers involved and/or by the Counterparty. If, during the performance of the Agreement, it appears that the performance is delayed, the delivery time will be extended by as many days as the delay has lasted, even if the delay in performance is attributable to Esthec's Personnel and/or suppliers.
- 6.3 Esthec is entitled to make partial deliveries.
- 6.4 Delivery will take place FCA Hendrik-Ido-Ambacht, return delivery will take place DAP, unless otherwise agreed in writing with Esthec.
- 6.5 The risk of damage to or loss or theft of the Products purchased will pass to the Counterparty at the time that the Products are made ready for dispatch by Esthec. Loading or stowage of the means of transport is therefore at the Counterparty's risk and all direct or indirect damage that may be caused to and/or by the Products for the Counterparty and/or third parties will be at the Counterparty's expense.
- 6.6 The Counterparty is responsible for the documentation required under the agreed Incoterm.
- 7. CONFORMITY**
- 7.1 The Counterparty is obliged to immediately examine upon completion and/or delivery whether the Products comply with the Agreement. If this is not the case, the Counterparty can only invoke this if it has informed Esthec of this in writing, stating reasons, as soon as possible but at the latest within 30 calendar days after completion and/or delivery, or at any rate after discovery was reasonably possible. If no formal delivery has taken place, the day of invoicing will be considered the delivery date.
- 7.2 Claims and defences based on facts that would justify the assertion that the Products completed and/or delivered do not comply with the Agreement will lapse 1 year after completion and/or delivery, or at least after discovery was reasonably possible.
- 7.3 If the Product delivered and/or supplied does not comply with the Agreement, Esthec will only be bound, at its discretion, to deliver what is missing, to repair the Product delivered or to replace the Product delivered and/or supplied. In these cases, delivery, replacement or repair will take place at the location where the original completion and/or delivery took place and within a reasonable time. Instead of replacing or repairing the Product delivered and/or completed, Esthec may, at its discretion, suffice with sending a credit note in the amount of the payment(s) already made for the performance delivered.
- 7.4 Minor deviations from quoted sizes, weights, numbers, colours and other such details will not qualify as shortcomings.
- 7.5 Trade practices will determine what constitutes minor deviations.
- 7.6 The provision by Esthec of product and other information and technical user advice in word, writing and/or by tests will be made to the best of its knowledge, but will only apply as indications without obligation, also in respect of third parties. Esthec's advice will not release the Counterparty from its own verification of the advice and Esthec's Products with regard to the application and use intended by Esthec. Application, use and processing of the Products delivered and the use of the information and technical advice given by Esthec are beyond Esthec's control and are entirely the responsibility of the Counterparty.
- 7.7 The Counterparty will not be entitled to reject or refuse Delivery or acceptance of the Goods on the sole ground that minor defects occur that do not prevent the normal use of the Goods in accordance with the Agreement, provided that Esthec undertakes to remedy such defects after Delivery of the Goods.
- 8. PAYMENT AND RETENTION OF TITLE**
- 8.1 The Counterparty will be obliged to pay the agreed price within 14 calendar days of the invoice date, without suspension, any deduction, setoff or settlement. Payments made by the Counterparty always serve as payment for all interest and costs due and subsequently for any exigible invoices that have been outstanding the longest, even if the Counterparty states that the payment relates to another invoice.
- 8.2 If the payment term is exceeded, the Counterparty will owe interest of 12.25%. If the statutory commercial interest rate is higher than 12.25% at that time, the statutory commercial interest rate will apply.
- 8.3 All costs incurred by Esthec in executing and maintaining its rights, including costs of calling in legal or other assistance as well as judicial and extrajudicial costs, will be for the Counterparty's account.
- 8.4 Non-compliance by the Counterparty with its payment obligation will legally result in immediate exigibility without notice of default being required.
- 8.5 The extrajudicial costs are set at 15% of the principal sum with a minimum of EUR 500.00. If Esthec can demonstrate that the extrajudicial costs are higher than 15% of the principal sum, the extrajudicial costs incurred will be borne in full by the Counterparty.
- 8.6 Failure by the Counterparty to fulfil its payment obligations will entitle Esthec to immediately suspend any subsequent deliveries of Products to the Counterparty, even if these deliveries are based on another agreement.
- 8.7 All Products delivered will remain the property of Esthec until the following has been paid to Esthec in full:
- (a) the performance owed by the Counterparty for all goods delivered or to be delivered pursuant to this or previous agreements concluded between the parties, as well as work carried out or to be carried out pursuant to such agreement;
- (b) claims for failure of the Counterparty to perform such agreement(s).
- 8.8 Bills of exchange and cheques will lead to payment of Esthec's claims only after cashing.
- 8.9 If the Counterparty forms a new object from or partly from the objects delivered and installed by Esthec, regarding which the Counterparty has not complied with all its obligations towards Esthec and has therefore gone into default, the Counterparty will be obliged to give Esthec access to that object in order to enable Esthec to de-install or remove the object already (partly) affixed. All costs incurred by Esthec for the purpose of such removal will be recovered from the Counterparty. The Counterparty will indemnify Esthec against any damage caused by Esthec to third parties during such removal.
- 9. SECURITY**
- 9.1 If there is good reason to believe that the Counterparty will not fulfil its obligations punctually, the Counterparty will be obliged to immediately provide sufficient security at Esthec's request, in a form desired by Esthec, and, if necessary, to supplement and maintain this security for the fulfilment of all its obligations under the Agreement. As long as the Counterparty has not complied with this stipulation, Esthec will be entitled to suspend fulfilment of its obligations. The establishment of (new) security for Esthec is not intended to replace or release (existing) securities.
- 9.2 If the Counterparty has not complied with a request as referred to in paragraph 1 within 7 calendar days of a written demand to that effect, all its obligations will become immediately due and payable.
- 10. TERMINATION/RELEASE**
- 10.1 If the Counterparty does not duly comply with any obligation under the Agreement, as well as in the event of bankruptcy, Court Confirmation of Extrajudicial Restructuring Plans ('WHOA'), (provisional) suspension of payment or placement under administration of the Counterparty or the cessation or liquidation of its business, Esthec will be entitled, at its discretion, without any obligation to pay compensation and without prejudice to its other rights, to terminate the Agreement in whole or in part or to suspend the (further) performance of the Agreement. In those cases Esthec will furthermore be entitled to claim immediate payment of any amounts owed to it.
- 10.2 If due to one or more circumstances Esthec's proper performance of the Agreement is wholly or partly impossible, either temporarily or permanently, Esthec will be entitled to terminate the Agreement.

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- 10.3 In the event of termination of the Agreement by the Counterparty within 1 calendar month before the agreed date of commencement of the work, the Counterparty must pay Esthec the full agreed price.
- 10.4 If the Agreement is cancelled by the Counterparty before the period of 1 calendar month mentioned in the previous paragraph, the Counterparty will owe the full Contract price minus the savings for Esthec resulting from the cancellation.
- 10.5 If proper performance of the Agreement by Esthec is permanently or temporarily impossible for the reasons mentioned in Article 4.3, Esthec will be entitled, at its discretion, to terminate the Agreement.
- 11. COMPENSATION**
- 11.1 Esthec will never be obliged to pay substitute or additional compensation except if and to the extent that the damage suffered was caused by intent or gross negligence on the part of Esthec or its own employees. Except in the event of intent on the part of Esthec, Esthec will under no circumstances be liable for trading losses, consequential losses, financial losses, losses of turnover volume or other indirect damages.
- 11.2 In all cases, the compensation owed by Esthec will be limited to the amount of the contract price already invoiced/price of the Product delivered.
- 12. SUBCONTRACTORS**
- 12.1 Esthec is free to assign all or part of the Work to third parties (subcontractors). This will not change the mutual rights and obligations of Esthec and the Counterparty towards each other as laid down in these Terms and Conditions and the order confirmation, with the proviso that Esthec will be entitled to have more stringent conditions imposed on it by its subcontractors (for example with regard to payment terms, interest, complaints, etc.) applied in full with respect to its Counterparty, provided that it notifies the Counterparty of these more stringent conditions in writing within a period of 1 week. The Counterparty will be deemed to have accepted these more stringent conditions if it has not informed Esthec in writing within 14 calendar days of receipt of the relevant communication that it wishes to terminate the Agreement.
- 12.2 Esthec stipulates all legal and contractual defences it can invoke to challenge its liability towards the Counterparty, also on behalf of its subordinates and the non-subordinates for whose conduct it was assumed to be liable pursuant to the law.
- 13. PUBLICATION & PHOTOS**
- 13.1 Esthec will have complete freedom to produce photographs of the deliveries it has made, Products installed and/or work carried out and to publish them with articles, including in trade magazines. Moreover, Esthec will have complete freedom to use advertising on the construction site.
- 14. ADDITIONAL OBLIGATIONS FOR THE COUNTERPARTY**
- 14.1 The Counterparty is obliged to:
- a) have all necessary government permits;
  - b) ensure that Esthec can immediately start its work by the agreed date and time;
  - c) ensure that, when carrying out work in indoor spaces, these spaces are glazed and watertight, as well as draught-free;
  - d) ensure that, when carrying out work in the open air that can only take place in dry weather, a provision is made for an awning, at the Counterparty's expense and to be approved by Esthec;
  - e) provide water, power (230/380 volts), sufficient lighting and heating to Esthec free of charge and keep them available during the Performance;
  - f) to make and keep at Esthec's disposal, free of charge, safe scaffolding and/or lifting equipment, if necessary with controls, at the work site for the purpose of vertical transport of materials and Esthec's Personnel;
  - g) remove waste and packaging that are or may be deemed harmful to the environment and/or public health from the work in accordance with the relevant statutory and other regulations;
  - h) ensure that, during the work to be performed by Esthec, the relevant spaces will be made available to Esthec free of obstacles, without other companies working in these spaces at the same time;
  - i) ensure necessary assistance, including from third parties, at its expense;
  - j) keep the access roads to the construction site in such a condition that all materials and equipment Esthec needs for the execution of the work can at all times be delivered directly to the site of the work by lorry and ensure that the transport distance from the unloading point to the place of execution of the work does not exceed 5 metres;
  - k) allow uninterrupted performance of the work and to reimburse Esthec for costs of stagnation at work that has occurred due to circumstances beyond Esthec's control.
- 14.2 If Esthec Products have to be applied to substrates, the Special Provisions Regarding Substrates will apply.
- 15. DISPUTES**
- 15.1 All disputes between the parties will in the first instance be adjudicated by the District Court of Rotterdam. Notwithstanding the above, Esthec will also have the possibility of submitting disputes for settlement to the Dutch Arbitration Institute ('NAI') with the appointment of one arbitrator, with the language of arbitration being Dutch.
- 15.2 All Agreements concluded between the parties are governed by Dutch law and the applicability of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980) is excluded.
- 16. AUTHENTIC TEXT**
- 16.1 The Dutch text of these Terms and Conditions takes precedence over any translations thereof.

## CONTRACTING AGREEMENTS

### 17. GENERAL

- 17.1 In addition to the conditions in the chapter 'Agreements General', in the case of agreements relating to Esthec Services that qualify as contracting of work ('aanneming van werk') as defined in Article 7:750(1) of the Dutch Civil Code, the conditions in the chapter 'Contracting Agreements' will also apply.
- 17.2 In case of any discrepancies between the conditions in the chapter 'Contracts general' and the conditions in the chapter 'Contracting Agreements', the conditions in the chapter 'Contracting Agreements' will take precedence.

### 18. OBLIGATION TO WARN

- 18.1 In accordance with Article 7:754(1) of the Dutch Civil Code, Esthec will warn the Counterparty upon entering into or performing the Agreement about inaccuracies in the order insofar as it was aware of them or reasonably should have been aware of them. The same applies in case of defects and unsuitability of items originating from the Counterparty, including the subbase on which the Counterparty has a Work performed, as well as errors or defects in plans, drawings, calculations, specifications or implementing provisions issued by the Counterparty.
- 18.2 Contrary to Article 7:754(2) of the Dutch Civil Code, the warning as referred to in Article 18.1 does not have to be in writing, nor does Esthec have to point out to the Counterparty the possible consequences for the proper performance of the Agreement.

### 19. TRANSFER FILE

- 19.1 Contrary to Article 7:757a of the Dutch Civil Code, Esthec will not hand over a transfer file ('overdrachtsdossier') to the Counterparty upon reporting the completion of the Work, unless otherwise agreed with Esthec and this has been expressly included in the Agreement. The information to be included in the transfer file is exhaustively and explicitly listed in the Agreement.

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