

GENERAL CONDITIONS OF CONTRACT

1. DEFINITIONS

In these Conditions and in the Proposal/Contract:

- (1) "*FUSACON*" means Functional Safety Consultants Nederland BV, Vogelenzangseweg 20, 4124 AS Hagestein.
- (2) "agree" or "agreed" means agree or agreed in writing.
- (3) "*Client*" means the contracting party for whom Services are performed by FUSACON
- (4) "*Contract*" means the contract between FUSACON and the Client for performance of the Services set out in the Proposal and incorporating these Conditions.
- (5) "*Proposal*" means the documentation in which FUSACON offers to carry out services for the Client and which has been accepted by the Client.
- (6) "*Services*" means any activity or service provided by FUSACON under the Contract.

2. APPLICATION OF CONDITIONS

- 2.1 Unless otherwise agreed, these Conditions shall be deemed to be incorporated in the Contract and shall apply to the total exclusion of any terms and conditions of the Client.
- 2.2 In the event of any conflict between these Conditions and any conditions in the Proposal, the conditions of the Proposal shall apply.

3. CONCLUSION OF AGREEMENT

- 3.1 The following applies if FUSACON has issued a written Proposal. Unless otherwise specifically indicated in the Proposal, Proposals from FUSACON shall be free of obligation. FUSACON may revoke a written Proposal within 2 working days of receipt of an acceptance. All Proposals can be revoked even if they contain a date by which they must be accepted.
- 3.2 Apart from the case referred to in paragraph 3.1, first full sentence, any order for delivery shall only be binding on FUSACON after it has been confirmed in writing by FUSACON or after FUSACON has started to implement it.

4. FUSACON'S OBLIGATIONS

- 4.1 FUSACON shall exercise all reasonable skill, care and diligence in the performance of the Services.
- 4.2 FUSACON intends to employ the methods, procedures, techniques, personnel and sources of information set out in the Proposal, but reserves the right to vary these at its discretion during the Contract. Any such variation shall be notified to the Client.
- 4.3 Delivery or performance dates shall never be regarded as a strict deadline. The Contract cannot be dissolved by the Client on the grounds that the date is exceeded, unless FUSACON fails to implement or perform or not complete in entirety within a reasonable period notified in writing after the expiry of the agreed date. The solution shall then only be permitted provided that circumstances dictate that the Client cannot reasonably be expected to maintain the Contract.
- 4.4 The risk of loss, destruction and/or damage to any goods given by the Client to FUSACON for processing, inspection or otherwise shall remain with the Client unless otherwise stipulated by special agreement.

5. CONFIDENTIALITY

- 5.1 All information of a confidential nature acquired by FUSACON from the Client as a result of this Contract shall be treated in confidence and not divulged to any third party without the Client's permission in writing.
- 5.2 Unless otherwise agreed, FUSACON retains the right to include references to the Services in its promotional material. Such references shall not include detailed material without the consent of the Client.
- 5.3 All information of a proprietary nature (Commercial-in-Confidence) supplied by FUSACON to the Client, shall be treated in confidence and shall not be revealed to any third party without FUSACON prior written approval.

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6. INTELLECTUAL PROPERTY

FUSACON shall become the owner of any patents, inventions, methods, rights, copyrights, designs and trademarks (hereinafter called inventions) made as a result of work under the Contract. FUSACON on securing any such patents will grant, on request, to the Client an irrevocable world wide royalty free non-exclusive licence to use such inventions where such use shall exclude work for any third party. The Client shall not have the right to licence any third party to use such inventions unless agreed by FUSACON

7. FINANCIAL ARRANGEMENTS

- 7.1 FUSACON shall make application for payment in accordance with the invoicing profile and manday rates agreed in the Contract.
- 7.2 Where the Services are undertaken on a time and expenses basis, the total fee indicated in the Proposal is FUSACON's estimate of its charges for the Services. If the Services cannot be completed within this sum, no further charges shall be incurred without the written approval of the Client and FUSACON shall be under no obligation to do any further work without such approval.
- 7.3 To the extent that Value Added Tax or Withholding Tax is properly chargeable, the Client shall pay such tax at the appropriate rate in addition to the charges indicated in the Proposal.
- 7.4 Correctly submitted invoices shall be paid within 30 days of their receipt by the Client.
- 7.5 In the event of failure to make a prompt payment, the Client shall be in default, without any proof of default or summons being required, and shall immediately be liable for an interest of 2% per month or - if higher - the statutory interest rate, on the amount outstanding. Part of a month is considered a full month in this context. In addition, insofar a performance under any Contract signed with the Client has not yet been made, FUSACON may totally suspend this performance until complete payment of the amount outstanding has been received. If even after being summoned, payment fails to be made within a further deadline that has been notified, FUSACON shall be entitled to rescind the Contract in whole or in part, by means of a written declaration, without prejudice to its entitlement to compensation.
- 7.6 All costs, both extrajudicial and judicial (including the costs of legal assistance), incurred by FUSACON in enforcing its rights against the Client, shall be for the Client's account.
- 7.7 The amount owed by the Client to FUSACON under the Contract shall be directly due in full in the event of:
- suspension of payment on liquidation of the Client organisation or application to this effect,
 - a decision by a Client to a partly or wholly discontinue or transfer the company,
 - the dissolution of the Client's company,
 - attachment served on the Client,
 - the Client's failure to make prompt payment on more than two occasions. In such cases FUSACON B.V shall be entitled to terminate all Contracts with the Client with immediate effect, unless within 8 calendar days after a request to this effect, appropriate security at FUSACON's discretion for everything owed by the Client to FUSACON has been or will continue to be provided, without prejudice to any other rights FUSACON may have.

8. LIABILITIES

The following applies to damage arising from or in connection with the Contract by or on account of FUSACON to or on account of the Client - in the broadest sense of the term - for which FUSACON provisions do not stipulate otherwise.

- 8.1 Only that damage shall be liable for compensation where the Client has incontestably demonstrated that this is a result of a condition or event for which FUSACON can legally be held liable.
- 8.2 a) FUSACON shall in no event be liable for compensation of damage consisting of loss of earnings or reduced revenues (consequential damages).
- b) Damage other than that referred to under 8.2a shall be reimbursed up to (100%) of the net invoice value - (this being the gross invoice value minus VAT and any other government levies on the price) - for the Contract with which the damage is connected, subject to the condition that never more than NLG 3 million shall be reimbursed.
- 8.3 The reimbursement referred to under 8.2b applies to all cases of damage arising from a Contract, with which the damage is connected.

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- 8.4 Without prejudice to the provisions in the preamble and in the previous paragraphs, the only damage that shall be liable for reimbursement is that damage that is suffered and that has emerged within 12 months of notification of the particular case and/or after the end of relevant Contract and which in addition was notified to FUSACON in writing within that period within 30 calendar days of discovery.
- 8.5 FUSACON shall be given all necessary cooperation in its investigation into the cause, nature and scale of any damage for which compensation has been claimed, failure of which results in loss of entitlement to any compensation for the Client.
- 8.6 Settlement against claims for compensation not acknowledged by FUSACON or not irrevocably established in law shall not be permitted.
- 8.7 The Client indemnifies FUSACON against any claims on whatever grounds from third parties which claim to have suffered damage from a Contract that FUSACON has supplied or provided on the Client's behalf or from third parties to whom the contents of any report, survey, opinion or other document produced or commissioned by FUSACON are made known directly or indirectly by the Client, except where the Client demonstrates that FUSACON, by virtue of the Contract and the general conditions, is liable for this damage in respect of the Client.
- 8.8 (Legal) persons who are part of FUSACON's company or in the employment of or working for FUSACON or are used by FUSACON in implementing the Contract and against whom claims for compensation are brought by the Client, may also invoke these provisions. In no event can the compensation claimed from these (legal) persons and FUSACON together exceed the amount that FUSACON alone would have to recompense.
- 8.9 Unless otherwise provided, all entitlement to compensation or damages by the Client against FUSACON shall lapse in any event 12 months after the completion of the Services.
- 8.10 If and in so far as the restriction on liability in a given case is considered to be unreasonably onerous or unacceptable, a restriction of liability shall apply that is still acceptable having regard to all the circumstances of the case.

9. TERMINATION

- 9.1 The Client may terminate this Contract or any work carried out hereunder at any time upon giving not less than 30 days written notice to FUSACON. In such event, the Client shall, where the Contract is being undertaken for a fixed fee, be liable for that fee. For work not undertaken against a fixed fee, the Client's liability shall be limited to charges for work executed and services and goods supplied or ordered (or the cancellation charges therefore if such cancellation can be reasonably effected upon receipt of such notice) prior to the expiry of such notice, together with an additional charge not exceeding 20% of any outstanding fees.
- 9.2 If either party hereto persists in any remediable breach of this Contract for 30 days after the receipt of notice from the aggrieved party specifying the breach and requiring it to be remedied, the aggrieved party may terminate this Contract by written notice to the party in default. In such event the Client's financial liability shall be in accordance with the provisions of Conditions 9.1 except that if FUSACON is the party in default, the additional charge referred to therein shall be waived.

10. FORCE MAJEURE

If the performance of this Contract or of any obligation hereunder by either party is prevented by reason of any circumstances beyond its reasonable control then that party shall, upon giving notice to the other, indicating the cause and likely duration of such circumstances, be entitled to defer such performance for the period during which such performance is prevented and have no responsibility for the financial or other consequences of non-performance.

11. LAW

This Contract shall be governed by Dutch Law and the jurisdiction of the Dutch Courts.