

## **GENERAL TERMS AND CONDITIONS**

### **applicable to Pest Control Services offered by EcO2 Projects B.V. and / or its affiliated companies**

#### **Article 1 Definitions**

In these General Terms and Conditions (hereinafter: the "T&C") and any document governed thereby, the capitalized terms set out below shall bear the meanings ascribed to them hereunder, unless explicitly stated otherwise.

Agreement	:	the agreement between the User and Principal which defines the scope of the Engagement and the Services to be rendered by the User, as well as the fee schedule applicable to said Services. More specifically, the Agreement consists of the Offer Letter, these Terms and Conditions and any other documents (or parts thereof) specified in the Offer Letter;
Engagement	:	means any agreement, in whatever form, reached between the User and the Principal pursuant to which the User agrees to render Services to the Principal in exchange for a fee plus costs;
Equipment	:	the machinery and tools that User uses or construct to perform the Services;
Intellectual Property Rights:	:	all intellectual property rights and rights related thereto, such as copyrights, trademark rights, patent rights, design rights, trade name rights, database rights, neighboring rights and rights to know-how.
Offer Letter	:	means the document (i) setting out the Services and / or the Equipment to be provided by the User to the Principal and (ii) listing any documentation to be provided by the Principal to the User such that the User may perform the Services
Party:	:	either the User or the Principal, as the case may be
Personnel:	:	any and all technical or other personnel designated or used by User to perform, render, or supervise any Services
Principal	:	any person or entity (private, public or governmental) entering into an agreement with the User;
Services	:	the fumigation, pest control, construction of pest control projects and related services to be provided by User to the Principal under the relevant Engagement;
Subcontractor	:	means either an affiliate or subsidiary of the User, or an independent contractor, respectively, which is qualified to perform the applicable services as contemplated by the Engagement and the Contract, and has been contracted by the User accordingly, as evidenced by an agreement in writing;
User	:	The user of these Terms and Conditions;

#### **Article 2 General**

- 2.1 Unless otherwise agreed in writing between the User and the Principal, and except where they are in conflict with i) the regulations governing services performed on behalf of governments, government bodies or any other public entity or (ii) the mandatory provisions of local substantial law, these T&C shall apply to all offers or Services and all resulting contractual relationships between User and any of its affiliated companies, and any Principal.
- 2.2 These T&C supersede any and all prior oral and written quotations, communications, agreements and understandings of the Parties and shall apply in preference to and supersede any and all terms and conditions of any order placed by the Principal and any other terms and conditions submitted by the Principal. Failure of the User to object to terms and conditions set by the Principal shall in no event be construed as an acceptance of any terms and conditions of the Principal. Neither the User's commencement of performance nor the User's delivery of Services shall be deemed or construed as acceptance of any of the Principal's terms and conditions. Any communication or conduct of the Principal which confirms an agreement for the provision of Services by the User, as well as acceptance by the Principal of any provision of Services from the User shall constitute an unqualified and unconditional acceptance by the Principal of these T&C.
- 2.3 Except in case the User receives prior written instructions to the contrary from the Principal, no other party is entitled to give any instructions in respect of the Engagement or the Services or any report or certificate resulting therefrom.

#### **Article 3 Delivery of Equipment and Products**

- 3.1 Unless expressly agreed otherwise in writing, the User will sell and arrange for the physical delivery of Equipment in the quantity required at the location indicated by the Principal.
- 3.2 The User shall not be liable for any delay or failure to deliver the Equipment in accordance with the Principal's instructions, if such delay or failure to deliver results from events outside of the control of the User.
- 3.3 The User shall ascertain that the Equipment to be delivered to the Principal are packaged and transported in accordance with the relevant manufacturer's or supplier's recommendations. Unless expressly agreed otherwise in writing, the Principal acknowledges and agrees that the User does not make any representation or warranty regarding the quality of the Equipment delivered, and the User's obligation to the Principal in this respect shall be limited to the obligation to assign to the Principal any rights the User may have against such manufacturer or supplier.

#### **Article 4 Performance of the Agreement**

- 4.1 The User shall carry out the Agreement (and the Services contemplated thereby) with reasonable skill, care and diligence and in accordance with the requirements of good workmanship, on the basis of the information provided by the Principal. On the basis of information supplied by the Principal, the User will advise on the appropriate quantity and type of products and on an appropriate treatment method to be used to perform the requested Services.
- 4.2 In the absence of such information and instructions, the User will perform the Services in accordance with:
  - (i) the terms and conditions of any standard order form or standard specification sheet of the User; and/or
  - (ii) any relevant trade custom, usage or practice; and/or
  - (iii) such methods as the User shall consider appropriate on technical, operational and/or financial grounds.

- 4.3 The Agreement will be performed at the Principal's expense and risk. Unless expressly provided otherwise, the Principal shall ensure that proper insurance is taken out, as the User shall have no obligation to insure the goods under the Principal's control.
- 4.4 As far as applicable and required for the performance of the Services, the Principal shall make sure that the User's employees shall be allowed to access all grounds, premises and / or projects of the Principal, and that all required formalities in this regard shall have been fulfilled.
- 4.5 The Principal shall be responsible for the correctness of the provided data, information and documentation, and shall be liable for any and all direct or indirect loss and/or damage whatsoever resulting from or relating to the incorrectness of such data, information and documentation. Moreover, the Principal shall hold harmless and indemnify User from and against any claims with respect to any of the above-mentioned losses and/or damage. The provisions of Article 12 ('Liability and Indemnity') shall apply *mutatis mutandis* to this Article 4.5.
- 4.6 The Principal hereby accepts that the time schedule allocated for the performance of an Engagement shall be indicative only, and no rights can be derived therefrom.
- 4.7 The Principal shall ensure that all information and permits which the User indicates are necessary or which the Principal should reasonably understand are necessary for the Agreement's performance are duly issued to the User.
- 4.8 In the event that the Principal has reserved the right to perform certain parts of the Engagement itself, the Principal will be liable for any non- timely supply or performance in that connection.
- 4.9 The User will not be liable for damage, of whatever nature, resulting from the fact that the User has operated on the basis of incorrect and/or incomplete information provided by the Principal, unless the User should have been aware of such incorrectness or incompleteness.
- 4.10 The Principal is aware of and explicitly approves the technologies and methods applied by the User in the performance of the Services.
- 4.11 In the event that Services are performed by the User or by third parties engaged by the User on site at the Principal or at a location designated by the Principal in the context of the assignment, the Principal will provide any facilities reasonably required by the User's employees or by those of the relevant third party free of charge.
- 4.12 The Principal shall indemnify the User against any claims of third parties that may incur damage relating to the performance of the Agreement and which is attributable to the Principal.

#### **Article 5 Principal's Obligations**

- 5.1 The Principal shall at all times duly (and , in any event, not later than 48 hours prior to the desired performance) make available to the User all product samples, access, assistance, information, records, documentation and facilities which are or may be conducive to properly performing the Services, including the assistance of properly qualified, briefed and authorized personnel of the Principal, and all relevant data, documentation and information. Also, the Principal shall provide all reasonable cooperation required for the proper and timely performance of the Services.
- 5.2 The Principal shall take all necessary steps to duly eliminate or remedy any obstacles to or interruptions in the performance of the Services.
- 5.3 The Principal shall ensure that all necessary measures are taken for the safety and security of working conditions, sites and installations during the performance of Services by the User, and will not rely, in this respect, on the User's advice whether required or not, except for ensuring that the User's written guidelines in relation to health and safety, period of exposure to fumigants, ventilation and re-circulation and any other relevant guidelines are complied with; furthermore, the Principal shall inform the User in advance of any known hazards or dangers, actual or potential, associated with any order or request for provision of Services, including, but not limited to, presence or risk of radiation, toxic or noxious or explosive elements or materials, environmental pollution or poisons.
- 5.4 The Principal is responsible for closing down areas for access by any other person than a representative of the User, if such areas are to be treated and in which case such treatment may cause a threat and or danger to persons.
- 5.6 In case there are any changes in or on the premises of the Principal that could potentially affect the (performance of the) Services by the User in any manner, the Principal shall immediately inform the User of the same.
- 5.7 The Principal shall fully exercise all its rights and discharge its liabilities under any relevant sales or other agreement with a third party and at law.

#### **Article 6. Principal's Obligations Relating to Rental Equipment**

- 6.1. In case the Principal rents or leases Equipment from the User, and subsequently performs the fumigation treatment itself, it warrants that it shall at all times duly follow the instruction manual and the instructions provided by the User. The Principal shall assume full responsibility for the performance and consequences of the treatment effected in such manner, and the User will not have any obligation to monitor the treatment by the Principal, unless expressly agreed otherwise in writing.
- 6.2. In case the Principal rents or leases Equipment from the User, and subsequently the fumigation treatment itself is performed by the User by way of providing instructions from a distance, the Principal must follow the instructions provided by the User in a correct manner, in default of which the Principal will bear all and any risks related to the performance and the consequences of the treatment itself and the treated goods.
- 6.3 Furthermore, the Principal warrants that it:
- I. shall not sell, part with possession of, pledge, or otherwise dispose of any Equipment owned by User. The Principal will have no interest in the Equipment supplied, and shall take no action inconsistent with User's ownership of the Equipment;
  - II. shall take out proper insurance to cover against injury (including death) to any persons or for loss of or damage to property as a result

- of the Principal's default or negligence;
- III. shall immediately notify anyone claiming possession of the Equipment of the ownership of User;
- IV. shall comply with all statutory and safety requirements relating to the use of the Equipment;
- V. shall notify User immediately of any damage, destruction or loss to or of any Equipment;
- VI. shall not at any time permit any Equipment to be removed, cleaned or repaired without the prior written permission thereto from the User.

#### **Article 7. Fees and Payment**

- 7.1 Unless a shorter period is established in the invoice, the Principal will promptly pay not later than fifteen (15) days from the relevant invoice date or within such other period as may be established by the User in the invoice, all any amounts due to the User, failing which, unless expressly agreed otherwise in writing, interest will become due at a rate of 1,5% per month (or such other rate as may be established in the invoice) from the due date up to the date on which payment is actually received by the User.
- 7.2 The Principal shall pay all of the User's collection costs, including attorney's fees and related costs.
- 7.3 The Principal shall not be entitled to withhold payment of any amount due under this Agreement by reason of any claim or counterclaim it may have or alleges to have against User or otherwise which is not related to the service.
- 7.4 If the User is unable to perform all or part of any Services for any cause whatsoever outside of the User's control, including failure by the Principal to comply with any of its obligations as set out in Article 5 ('Principal's Obligations') and 6 ('Principals Obligations Relating to Rental Equipment') hereof, the User shall nevertheless be entitled to payment of:
  - (a) the amount of all non-refundable expenses incurred by the User; and
  - (b) a proportion of the agreed fee equal to the proportion of the Services actually performed.
- 7.5 In the event that the Principal becomes insolvent, is granted a suspension of payments or files for bankruptcy, any unpaid balance due to the User arising from this Agreement shall be immediately due and payable and Principal shall make immediate payment of any such amounts.

#### **Article 8. Modification or cancellation of an order**

- 8.1 Unless expressly agreed otherwise in writing, the Principal shall pay any additional costs and shall bear the risk of delay arising from the fact that the Principal requires that the Services be supplied at a different location than originally agreed or otherwise changes the instructions originally given to the User as contemplated (inter alia) by Article 4.1 hereof.
- 8.2 If for any reason whatsoever, outside of Force Majeure as defined in Article 13, the Principal cancels the order, the Principal shall pay to the User a portion of the agreed fee corresponding to the Services actually carried out by the User prior to the cancellation of the order. Should such termination occur after the User has engaged a contractor or other third party to perform (part of) the Services, then the Principal shall fully indemnify the User for any expenses resulting therefrom.

#### **Article 9 Suspension or Termination of Services**

- 9.1 In the event of:
  - (a) the Principal failing to comply with any of its material obligations under the Agreement, whereby it does not remedy such failure after a period of fourteen (14) working days after receiving written notice thereof; or
  - (b) any suspension of payment, arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by the Principal;
  - (c) the Principal failing to meet its payment obligations stipulated in Article 7 ("Fees and Payment"),the User shall be entitled to immediately and without liability either suspend or terminate the provision of the Services contemplated by the Agreement.

#### **Article 10. Performance, Delivery and Risk in Equipment Sold**

- 10.1 Unless expressly agreed otherwise in writing, the ownership of the Equipment will be transmitted to the Principal as soon as such Equipment has been physically delivered on the Principal's premises or at the location indicated by the Principal where the Equipment has to be delivered or as soon as the Equipment has been paid by the Principal, whichever is earlier.
- 10.2 The Principal will be obliged to take delivery of the Equipment at the time that the User delivers same to it or has same delivered to it by third parties, or at the time at which the Equipment has been made available to it pursuant to the Agreement.
- 10.3 In the event that the User requires information from the Principal in order to be able to properly perform the Services contemplated by the Agreement, performance will commence after the Principal has made such information available to the User.
- 10.4 If the User has stated a completion or delivery period, such will be indicative. A stated completion or delivery time may therefore never be deemed to be a firm deadline. In the event that a term is exceeded, the Principal must give the User written notice of default and grant it a reasonable period of time to comply as yet.
- 10.5 Unless expressly agreed otherwise in writing, the User will be entitled to complete the Services in parts. The User will be entitled to invoice partial deliveries separately.
- 10.6 The Principal will be obliged to inspect the Services completed or the items delivered, or have others do so, at the time of completion or delivery. In so doing, the Principal must check whether the quality and quantity of the Services performed or the delivered

Equipment correspond with what has been agreed, or at least meet the requirements expected in standard business practice.

- 10.7 Unless expressly agreed otherwise in writing, any alleged defects or imperfections shall be reported to the User in writing within one (1) day of completion or delivery.
- 10.8 If the User provides the Principal with materials, such as raw materials, auxiliary materials, tools, drawings, specifications and/or software, for the execution of the Agreement, these goods will remain the property of the User. The User will treat these goods with care and hold them with due and proper care, and keep these apart from other goods, and mark these goods as the User's property.
- 10.9 In the event that no timely complaint is submitted or in the event that the Principal has taken the Services performed into use, the Services will be deemed to have been delivered in sound condition.

#### **Article 11 Reservation of ownership**

- 11.1 All Equipment and other goods supplied by the User, be they processed or not, will remain the User's property until the Principal has fulfilled all its obligations arising from all Agreements concluded with the User.
- 11.2 The Principal will not be entitled to sell, pledge or encumber in any other way any Equipment or other goods covered by the retention of title.
- 11.3 Should the User wish to exercise its reservation of ownership rights as referred to in this Article, the Principal hereby grants its unconditional and irrevocable permission to the User or any third parties to be designated by the User to enter those places where the User's Equipment or other goods is / are located and to recover such Equipment or other goods.
- 11.4 The User will be entitled to retain any goods the delivery of which is desired by any party at the expense and risk of the Principal and/or of the owner until all eligible claims have been paid.

#### **Article 12 Liability and Indemnity**

Liability of liability:

- 12.1 Unless expressly agreed otherwise in writing, the User does not make any representation, guaranty or warranty that the goods or premises treated will be free from live insects or infestation after the provision of the Services. The Principal acknowledges and agrees that insects sometimes become resistant and are not affected by the fumigation.
- 12.2 The User is neither an insurer nor a guarantor and disclaims all liability in such capacity. The Principal seeking a guarantee against loss or damage should obtain appropriate insurance.
- 12.3 The User shall not be liable for any delayed, partial or total non-performance of the Services arising directly or indirectly from any event outside the User's control including failure by the Principal to comply with any of its obligations under the Agreement.
- 12.4 The Parties acknowledge and agree that at all times, the total aggregate and cumulative liability of User and/or its Personnel arising from or relating to any (alleged) breach of its obligations under this Agreement or any claim for loss, damage or expense of any nature and howsoever arising, shall in no circumstances exceed a total aggregate sum equal to 10 times the amount of the fee paid in respect of the specific service which gives rise to such claim or US\$80,000 (or its equivalent in local currency), whichever is the lesser. (hereinafter referred to as the 'User Liability Cap Amount'),
- 12.5 Under no circumstances shall the User have any liability for any indirect or consequential loss, including without limitation loss of profits, loss of business, loss of opportunity, loss of goodwill and cost of product recall. Furthermore, the User shall have no liability for any loss, damage or expenses arising from the claims of any third party that may be incurred by the Principal.
- 12.6 Unless expressly agreed otherwise, the Principal shall guarantee and hold harmless and indemnify the User and its Personnel from and against any and all claims (actual or threatened) by any third party for loss, damage or expense of whatsoever nature including all legal expenses and related costs and howsoever arising relating to the performance, purported performance or non-performance of any Service(s).

#### **Article 13 Force Majeure**

- 13.1 If by reason of "force majeure", which shall mean for the purpose of this Agreement any cause beyond the reasonable control of the affected Party including, without limitation including but not limited to any act of God, war, riots, acts of the public enemy, fires, strikes, labour disputes, accidents, or any act in consequence of compliance with any order of any government or governmental authority, any Party hereto is delayed or prevented from complying with its obligations under this Agreement, the affected Party shall immediately give notice to the other Party stating:
- (i) the nature of the force majeure event;
  - (ii) its effect on the obligations under this Agreement of the party giving notice;
  - (iii) the estimated date the contingency is expected to be removed.

If the contingency cannot be permanently removed, or if a contingency results in a delay extending beyond thirty (30) days, this Agreement (upon notice by either Party) shall be terminated in accordance with the relevant provisions of the Agreement, and the parties shall be relieved of their further contractual obligations, except for their accrued rights and final accounting arising from or relating to this Agreement.

#### **Article 14 Intellectual property and copyrights**

- 14.1 Unless expressly agreed otherwise in writing, all Equipment or other goods delivered to the Principal shall remain the property of the User until such time as all amounts owed by the Principal to the User pursuant to the Agreement have been paid in full. Without prejudice to the provisions of these T&C, the User will retain all Intellectual Property Rights relating to any Service rendered or any Equipment or other goods delivered .
- 14.2 Unless expressly agreed otherwise, any calculations, sketches, drawings and items made by the User in the context of the Agreement will remain the User's intellectual property, irrespective of whether such have been made available to the Principal or to third parties. Such items may not be reproduced, sold, made public or be brought to the notice of third parties without the User's prior written permission, unless the contrary ensues from the nature of the documents provided.

#### **Article 15 Assignment**

- 15.1 The Principal may not assign this Agreement without the prior written consent of User.

#### **Article 16 Health & Safety**

- 16.1 The Principal shall take all and any reasonable steps to ensure that the advice and instructions given by User, both in written and oral form, to protect the health and safety of persons using the premises during and after the provision of the Services are duly followed.
- 16.2 The Principal shall advise the User and its Personnel of any hazards they may encounter whilst working at the Principal's premises.

#### **Article 17 Notices**

- 17.1 Any notice to given to the User under this Agreement or any document related or ancillary thereto shall be in writing and shall be sent by hand or by registered mail to the User's designated address set out in the header of the Agreement (or such other address as shall be notified in writing for the purpose of this Article).
- 17.2 Any notice to given to the Principal under this Agreement or any document related or ancillary thereto shall be in writing and shall be sent by hand or by registered mail to the Principal's designated address set out in the header of the Agreement (or such other address as shall be notified in writing for the purpose of this Article).
- 17.3 Any notice shall be deemed to have been validly served on the receiving Party on the second day (excluding Saturdays, Sundays and nationally recognized public holidays) after dispatch.

#### **Article 18 Entire Agreement**

- 18.1 This Agreement constitutes the entire agreement between the Principal and User,
- 18.2 Unless expressly agreed otherwise in writing, the Principal shall not be entitled to rely on any statement, warranty or representation made by or on behalf of User to the extent that such representation is inconsistent with these T&C, nor any advice or recommendation given by or on behalf of the User as to the supply of the Services,
- 18.3 Unless expressly agreed otherwise, these T&C shall prevail over any inconsistent terms which may be set out on the Principal's inquiries, orders or any other documents received by User from the Principal or which may be implied by law or trade, custom, practice or a customary rule established between the Parties, all of which are hereby expressly excluded.

#### **Article 19 Miscellaneous**

- 19.1 If any one or more provisions of these T&C 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.
- 19.2 No variation, extension, exclusion or cancellation of this Agreement shall be binding (unless terminated in accordance with the relevant provisions thereof)
- 19.3 During the course of providing the Services and for a period of one (1) year thereafter the Principal shall not directly or indirectly entice, encourage or make any offer to the User's employees to leave their employment with the User.

#### **Article 20 Disputes**

Unless expressly agreed otherwise, the Rotterdam courts will be competent to take cognizance of any disputes arising from or relating to this Agreement, to the exclusion of all other courts. Nevertheless, the User will be entitled to submit any disputes to the competent court according to the law or to submit such to an arbitration board.

#### **Article 21 Applicable law**

Unless expressly agreed otherwise, all agreements (including, but not limited to this Agreement) between the User and the Principal will be governed by Dutch substantial law.