

GENERAL CONDITIONS APPLICABLE TO OUR SERVICES (AVTP 2009-01 E)

1. OBJECT

These general conditions define the framework and the boundaries for carrying out our assignments, as well as our mutual obligations. Additional or diverging specific conditions can be agreed upon contractually.
We reserve the right to change these general conditions at any time up until we have finally accepted the assignments to be carried out.

These general conditions are applicable in all cases, with the exception of any explicit exceptions which have been signed by the general manager of our company, and supersede any other conditions which might be sent to us.

2. ASSIGNMENTS

In order to be able to carry out our assignments under the best possible conditions and depending on the nature of the work, we request the client or his representative to do the following:

- provide our project manager with any documents, data, systems, etc, which may be required for the purpose of successfully completing the assignment .
- in the event of a site inspection:
 - take care of all access formalities and permits, accompany our agents, provide them with copies of any guidelines that need to be observed at the facility which is being inspected, and provide any safety equipment or appliances which need to be used at the facility.
 - ask a safety manager to provide our representatives with any specific information and instructions relevant to the facility which is being inspected which may be necessary in order to guarantee their health, safety and hygiene; this information may also be sent directly to our project manager.
 - ensure that your representative is in attendance to operate the machinery which is to be inspected, amongst other things.

We reserve the right to subcontract certain assignments to other institutions or laboratories working under our responsibility, within the authorised limits pursuant to the legal terms and conditions and rules of recognition or accreditation.

Our reports are written on your behalf and at your expense. A single copy, in your choice of either Dutch or English, is drawn up and sent to you. Reports in other languages and additional copies of reports are subject to an additional charge.

Unless there is a legal obligation or an obligation pursuant to an accreditation we will keep the report and the file for just three years.

The conclusions in the report relate exclusively to findings made at the time when the work and the analysis were carried out.

3. SETTING AND REVIEWING PRICES – INVOICING AND PAYMENTS

3.1. Setting and content of the prices

Our prices are set by mutual agreement. They are charged on the basis of a normal 8-hour working day, between 6 a.m. and 8 p.m. from Monday to Friday, except for public holidays. Working days, including travel, should be no longer than 9 hours.

The following are subject to additional charges:

- Work on Saturdays, or work carried out between 8 p.m. and 6 a.m. : 50% additional charge
- Work in excess of eight hours per day: 50% supplement
- Sundays and National Holidays: 100% additional charge

Irrespective of the reasons, work and costs may, if necessary, be added to the amounts budgeted for. This especially applies to any additional research which, as a departure from the established programme, may be deemed necessary based on the observations made when the work is carried out. The price of this additional work and costs will be set as per the principles quoted above.

Our prices do not include any Belgian or foreign taxes and duties.

Unless otherwise stated, our prices do not cover travel, accommodation and living costs for our representatives; if applicable, these charges will be fully charged to the client.

3.2. Price Review

Our prices are valid for the term specified in the offer and/or, according to the specifications in the contract. The specific agreed price is reviewed according to the review formula defined in the contract.

3.3. Invoicing

An invoice will be raised for each of the aforementioned assignments either after the relevant report has been sent or according to the specifications stated in our contract.

The costs and expenses relating to the assignment as well as any additional work and costs will be charged separately at the rates in force at the time of the assignment, or according to the prices and procedures agreed in the contract.

3.4. Terms of payment

Unless stated otherwise in the offer or contract, our invoices are payable in full and with no discount at our headquarters within 30 days of the date of the invoice. Any refusal to pay, on any grounds whatsoever, must be reported to us within 8 days of the date of the invoice.

Payment for our invoices must be sent exclusively to us. We may not, under any circumstances, be laid under an obligation to seek payment from third parties.

In the event of late payment, we reserve the right to postpone any work being carried out without notice and to resume as soon as payment has been received, unless agreed otherwise.

Non-payment of either the whole or any part of an invoice will legally entitle us to take the following action, without notice:

- Claim payment of all other invoices – even if they have not yet fallen due.
- Add a 10% debt collection allowance to the amount outstanding, with a minimum fee of €250.00, plus any legal or debt collection costs.
- Annual interest for arrears to the sum of 12% of the outstanding amounts, accruing from the due date of the invoice.

Any changes to your circumstances, such as the sale or transfer of your business or a part thereof, death, incapacity, payment difficulties or suspension of payments, liquidation of goods, legal settlements, provisional suspension of proceedings, arrangement with creditors, bankruptcy or other similar proceedings, dissolution or change of status, even after partial fulfilment of the agreements or orders, will lead to application of the same measures as for non-payment of invoices.

4. AGREEMENT BETWEEN THE PARTIES -LIABILITY

We may not be held liable for any hidden defects in materials, products and manufactured parts. Nor may we be held liable for any failure by the Customer or any third parties to observe any laws, rules or contractual obligations and/or failings in the carrying out of the work.

Without prejudice to the application of current regulations, we may only be held liable if there is a serious offence or intention to defraud and provided that there is positive proof of the causal link between the serious offence or intention to defraud and the losses incurred. In the event of this type of liability, the customer hereby accepts that we may only be held liable for any losses arising as a direct consequence of the proven serious offence or intention to defraud and for a maximum of the total value of the invoice paid by the customer for the relevant services provided. We may not, under any circumstances, be held liable e.g. for any indirect damage, loss of earnings or of customers, etc.

We may not be held liable for any losses caused by our representatives if they are not accompanied or if they are not informed of any specific features relating to the parts, equipment or facilities to be inspected. The above would mean that the client or any third party involved are no longer entitled to demand compensation either from us or from our employees. You should inform your insurers of the above and ensure that it is binding upon them.

Any cases of *force majeure* and/or acts of God shall entitle us either to terminate the contract or order to postpone the performance thereof without giving notice or compensation. In such cases, we may under no circumstances be held liable either for any failure to fulfil our obligations or for any losses which the Customer might incur as a result.

5. DURATION

The contract is concluded for the term defined therein. If not defined in the contract, the contract is concluded for a term of three years with effect from the date on which it is signed. It will be automatically renewed for the same term on each expiry date unless it is terminated by means of a registered letter with proof of receipt sent six months prior to the expiry date.

6. COPYRIGHT ©

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The client allows Materials Consult bvba and the shareholders of Materials Consult bvba to use the results of a project, failure analysis or other advise in a technical or scientific publication, in which Materials Consult bvba and her shareholders guarantee a full anonymity of the client.

7. PRIVACY

Your contact data will be registered in our databases and will solely be used for internal reasons, except for your e-mail address, that will be used to provide you with our quarterly newsletter, unless explicit refusal from your part. Your coordinates will not be put at the disposal of third parties, unless your explicit approval.

If you don't want to receive our newsletter you can unsubscribe by sending an unsubscribe e-mail to info@materialsconsult.be or by using the unsubscribe link at the end of each newsletter.

8. APPLICABLE LAW – DISPUTES

Every effort should be made to reach an amicable settlement of any differences arising out of the validity, interpretation or performance of this document.
If the dispute remains unresolved, jurisdiction is hereby assigned exclusively to the court of Leuven, Belgium, and this contract is subject to Belgian law.