

INTERTEK NEDERLAND BV GENERAL TERMS & CONDITIONS OF SERVICE

- 1 In these conditions: - "Company" means Intertek Caleb Brett Nederland B.V. "Principal" means the persons or bodies from whom the instructions to act have originated.
- 2 a Unless otherwise specifically agreed in writing the Company undertakes services in accordance with these general conditions and accordingly all offers or tenders of services are made subject to the same. The Company explicitly rejects the applicability of any general conditions applied by the Principal.
b The Company contracts for itself and as agent of a trustee for its servants, agents and sub-contractors and every reference to the Company in these conditions shall be deemed to include all such servants, agents and subcontractors so that such persons or bodies shall have the benefit of these conditions and collectively and together with the Company shall be under no greater liability to the Principal or to any third party than as the Company hereunder.
- 3 a The Company shall be entitled to perform any of its obligations herein by itself or by its parents, subsidiary or associated companies or by an independent sub-contractor.
b The Company shall also be entitled to procure the provision of services solely as an agent for the Principal and in any such case the Company will not make any contract with the Principal for the provision of any such service and shall act on behalf of the Principal in arranging a contract for services directly between the Principal and the third party contractor.
- 4 The Company is a business enterprise engaged in the trade of inspection. As such, it:
a carries out inspections, examinations, tests, samplings, measurements and similar operations;
b issues reports and certificates relating to the aforesaid operations;
c renders advisory services in connection with such matters.
- 5 The Company acts for the Principal. No other party is entitled to give instructions, particularly on the scope of inspection or delivery of report or certificate, unless so authorised by the Principal.
The Company will however be deemed irrevocably authorised to deliver at its discretion the report or the certificate to a third party of following instructions by the Principal a promise in this
- 6 The Company will provide services in accordance with:
a the Principal's specific instructions as confirmed by the Company;
b terms of the Company's Standard Order Form and/or Standard Specification Sheet if used;
c any relevant trade customs, usage or practice;
d such methods as the Company shall consider suitable on technical and/or financial grounds.
- 7 Documents reflecting engagements contracted between the Principal and third parties, such as copies of contracts of sale, letters of credit, bills of lading are (if received by the Company) considered to be for information only, without extending or restricting the Company's mission and obligations.
- 8 The Company standard services are as follows:-
a quantitative and/or qualitative inspection;
b inspection of condition of goods, packing, containers and transportation;
c inspection of loading or discharging;
d sampling;
e laboratory analysis or other testing;
f cleanliness or gasfree testing.
- 9 Special services where the same exceed the scope of standard services as referred to in paragraph 8 will only be undertaken by the Company by particular arrangement. Such special services are illustratively not exhaustively:-
a qualitative and/or quantitative guarantees;
b grouped services including concurrent and consequent operations;
c supervision of full industrial project schemes, including consulting, expediting and progress reporting.
- 10 Subject to the Principal's instructions, the Company will issue reports and certificates of inspection which reflect statements of opinions made with due care within the limitation of instructions received but the Company is under no obligation to refer to or report upon any facts or circumstances which are outside the specific instructions received.
- 11 The Principal agrees that he will:
a ensure that instructions to the Company are given in due time to enable the required services to be performed effectively;
b procure all necessary access for the Company's representatives to goods, premises, installations and transport;
c supply, if required, any special instrument necessary for the performance of the required services;
d ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of service and will not rely, in this respect, on the Company's advice whether required or not;
e take all necessary steps to eliminate or remedy obstructions to or interruptions in the performance of the required services;
f fully exercise all his rights and discharge all his liabilities under the contract of sale whether or not a report or certificate has been issued by the Company failing which the Company shall be under no obligation to the Principal.
- 12 a The Company undertakes to exercise due care and shall in the performance of its services and accepts responsibility only in case of negligence proven by Principals.
b The liability of the Company, its servants, agents and sub-contractors to the Principal in respect of any claims for loss, damage or expense of whatsoever nature and howsoever arising shall in no circumstances exceed €11.344,50 or a total aggregate sum equal to fifteen times the amount of the fee or commission payable in respect of the specific services required under the particular contract which gives rise to such claims whichever is the lower amount. Where the fee or commission payable relates to a number of services and a claim arises in respect of one of those services the fee or commission shall be apportioned for the purposes of this paragraph furthermore by reference to the estimated time involved in the performance of each service.
c The Company shall be under no liability whatsoever to the Principal for any claims arising in respect of any service provided unless suit be brought and written notice thereof has been received by the Company within one month from the date of the event or occurrence alleged to give rise to a cause of action against the Company.
- 13 The Principal shall guarantee, hold harmless and indemnify the Company and its servants, agents and sub-contractors against all claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance of any services to the extent that the aggregate of any such claims relating to any one service exceed the limit mentioned in paragraph 12 (2).
- 14 The Principal will punctually pay not later than 15 days after the relevant invoice date or in such other manner as may have been agreed in writing all proper charges rendered by the Company failing which 15% extra judicial collection cost and interest will become due at a rate of one per cent per month from the date of invoice until payment. The Principal is not entitled to enforce any right of set-off.
- 15 In the event of the Company totally or partially prevented by reason of any cause whatsoever outside the Company's control from performing or completing any service for which an order has been given or an arrangement made the Company shall be relieved of all responsibility whatsoever for the partial or total non-performance of the required services and the Principal will pay to the Company on demand:-
a the amount of all abortive expenditure actually made or incurred.
b a proportion of the agreed fee or commission equal to the proportion (if any) of the service actually carried out.
- 16 If any provision of these conditions is held by any competent tribunal to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby and shall remain in full force and effect.
- 17 These conditions and any contract to which they apply shall be governed by Dutch Law and any dispute arising out of any contract to which these conditions apply shall be subject to the jurisdiction of the District Court of Rotterdam.