

**GENERAL TERMS AND CONDITIONS FOR SALE AND PERFORMANCE OF  
GEO BENELUX B.V.**

**Article 1: General**

1. These terms and conditions apply to every agreement – hereinafter referred to as instructions – between GEO BENELUX B.V. - hereinafter referred to as the contractor – and the other party – hereinafter referred to as the client - , unless the parties have expressly departed from such in writing prior to the formation of the agreement. If two or more clients have entered into an agreement in respect of the same instructions, they are jointly and severally liable for the total instructions and the ensuing consequences. Where these terms and conditions refer to the performance of the instructions, this also includes the delivery of the ordered materials. The GEOBRUGG safety systems are excluded as for these materials the general terms and conditions of GEOBRUGG apply first. In the event of any conflict between provisions in those terms and conditions and those of the contractor, the contractor decides which provisions from which terms and conditions shall apply.
2. All other terms and conditions of the client or third parties are expressly excluded, unless the contractor has expressly agreed to those other conditions in writing. Departures from, or additions to, these general terms and conditions are only binding if and insofar the Board of Directors of the contractor has agreed to those in writing.
3. If one or more provisions in these general terms and conditions were not to be applicable, the other provisions of these terms and conditions remain in full force.

**Article 2: Offers and instructions**

1. All offers by the contractor shall be issued in writing and are free from obligation and, unless expressly otherwise agreed, are valid for 30 days from the date of the offer. The parties agree that communication may also take place electronically, by email for example.
2. An agreement to which these general terms and conditions apply, is not formed earlier than at the moment the contractor has confirmed in writing to accept the instructions of the client, or when the contractor has commenced with the performance of the instructions. If the client has opted to have itself represented by a third party, all consequences of such are exclusively for the account and at the risk of the client and all that included in these general terms and conditions apply mutatis mutandis to such representative. The representative and the client are jointly and severally liable towards the contractor.
3. If the client has not complained within 3 days from the date of the confirmation of the instructions, it agrees with the content of this confirmation.
4. Amendments, additions and/or expansions in the offer or instructions may only take place with the written consent of both parties and are in that case deemed to form part of the agreement for services. If the contractor has notified the client of the contractor's proposed amendments, additions and/or expansions in writing or commences with the performance of such amendments, additions and/or

expansions and the client has not within five days from the notification dispatch date let it be known unequivocally and in writing not to agree to this, the consent referred to in the previous sentence is deemed to have been granted

5. If the offer is not accepted by the client, the contractor is entitled to charge the costs related to the preparation of the offer to the client on whose request it has submitted the offer if and insofar as the contractor has stipulated this before the issuance of the offer.

### **Article 3: Prices**

1. The rates and sums applied by the contractor are either fixed or determined on the basis of subsequent costing and are exclusive of the VAT applicable at the time of invoicing.
2. The prices indicated in the offer are based on cost prices applicable on the date of the offer, also in relation to the amendments, additions and/or expansions referred to in article 2.4 and are binding unless the instructions are performed more than 2 months after this date. In the latter case, the contractor is entitled to adjust the prices to the price changes of raw materials, materials, parts, wages, exchange rates, insurance premiums, transport costs, tax burdens, social security contributions and other levies and/or charges, whether or not imposed by government, occurring up until the date of actual delivery.
3. The prices stated in the offer are based on the performance or delivery of the instructions during normal working hours and on working days from 8.00-17.00 hours. If these times are departed from, the contractor is entitled - insofar as no further written agreements have been made on such – to reasonably adjust the prices.
4. The packaging, loading and unloading and transport of materials as well as the sending of documents or other data carries (including drawings) for the benefit of the work takes place for the account and at the risk of the client. The costs associated with these activities are invoiced separately. These costs are not included in the price.

### **Article 4: Performance of the agreement**

1. With the formation of an agreement as referred to in article 2(2), the contractor does not oblige itself to more than delivery of the ordered product and/or the performance of the instructed work. Delivery in consignments is permitted. Any notifications made by the contractor may never be viewed as advice unless the contractor has stipulated a fee for such which is separate from the instructions to be performed.
2. The contractor shall not carry out additional work without the prior approval by the client. The costs of the additional work are charged to the client. The absence of written instructions does not affect the entitlement to payment for additional work.
3. The client guarantees that the contractor may assume in its offer and during the performance of the instructions, that the work to be carried out for the client can commence at the time provided for in the agreement without any delay and that it may continue without obstructions, with unrestricted access and

uninterrupted under normal conditions and during normal working hours and that the location where the instructions are performed or delivered is safe. If such appears not to be the case in practice and the parties have not come to further agreements on this in writing, the contractor is entitled to reasonably adjust the prices.

4. The client is responsible for any permits required, whether or not by government, relating to import/export/work under whatever heading.
5. The contractor endeavours to perform the instructions within the agreed term, unless this afterwards reasonably appears to be impossible. If performance within the agreed time appears not to be feasible, for whatever reason, the client shall be contacted as soon as possible and the parties shall come to further agreement in consultation. The contractor shall not however be in default by the mere exceeding of the term. Exceeding the term by the contractor does not form a ground for any compensation whatsoever.
6. The performance of the instructions shall not commence before the client has provided the contractor with all the necessary information, samples, equipment, permits or other items. If any delay occurs in this, the agreed term in which the work must be performed shall be extended accordingly.
7. The contractor is entitled to have the agreement performed wholly or in part by third parties in which event these terms and conditions may also be relied upon by or on behalf of these third parties.

#### **Article 5: Confidentiality**

1. Unless otherwise agreed in writing the client undertakes, with the exception of the events referred to in paragraph 2 and 3 of this article, to keep all it becomes aware of at or in respect of the contractor, both during the offer stage and during the performance of the agreement, confidential except and insofar the relevant information is required for the performance of the instructions. This duty of confidentiality applies on penalty of an immediately due and payable contractual fine of € 100,000 per breach and per day or part thereof the breach continues.
2. In the event there is a demand to disclose the information whereby the client is obliged by law, under the articles of association or otherwise, to provide information which is not accessible to the public, the duty of confidentiality as referred to in paragraph 1 of this article lapses.
3. The duty of confidentiality as referred to in paragraph 1 of this article also lapses if it concerns information which is already common knowledge on the day it has become public, or which, other than through unlawful acts, has become common knowledge after the date on which the client has become aware of it.

#### **Article 6: Obligations and responsibilities of the client**

1. The client is responsible, for its account and at its risk, for the contractor having at its disposal both on time and uninterrupted:

- information and consents required for the performance of the work (such as permits, exemptions and decisions);
  - (uninterrupted safe access to and) the building, the site or the water in which or on which the work has to be performed;
  - sufficient space for the supply, storage and/or removal of materials and auxiliary materials including waste and/or;
  - options to connect electric equipment, water, gas, compressed air (insofar as necessary) and such like;
  - electricity, gas and water
2. Any required electricity, gas, water and such like are for the account of the client.
  3. The client shall ensure that other third parties not engaged by the contractor carry out the work and/or deliveries not forming part of the instructions of the contractor in such a way and at such times that the performance of the work does not experience any delay as a result. Failing which, waiting hours and/or other loss and/or costs shall be charged on to the client.
  4. The client guarantees safety on the site, water and wherever else the instructions or deliveries are performed.
  5. Reports and/or statements received from or via the contractor may exclusively be disclosed to third parties by the client after written permission of the contractor and in their totality and furnished with a proper acknowledgement of sources. The client is at all times liable for any loss arising from such publication.
  6. The client undertakes, during the performance of the instructions as well as for one year after termination of such, subject to the prior written consent of the contractor, not to employ either directly or indirectly, persons and/or companies affiliated with or put forward by the contractor or engage those in any way such on penalty of an immediately due and payable fine of € 100,000 per breach and per day or part thereof the breach continues.

**Article 7: Obligations of the contractor**

1. The contractor shall endeavour to perform the work properly, soundly and in accordance with the provisions of the agreement and applicable regulations.

**Article 8: Ownerships rights**

1. The drawings, designs, images, models, offers, reports and such like provided by the contractor are and remain the property of the contractor and may not be copied, disclosed to third parties or used in any other way without the prior written consent of the contractor. The client is obliged to return these documents to the contractor on demand within 14 days to the contractor postage paid.

2. The contractor is and remains the owner of all industrial and/or intellectual property rights relating to the matters referred to in paragraph 1 unless such are, exclusively by written agreement, transferred to the client.
3. All goods and rights delivered by the contractor remain its property until all claims of the contractor on the client concerning such goods and rights and accompanying costs have been paid in full.

#### **Article 9: Invoicing/Payment/Security**

1. Payment by the client must take place within 8 days from the date of invoice. The contractor shall send the client an invoice to this end.
2. The contractor reserves the right to send invoices at regular intervals.
3. The contractor may at any time demand advance payment or security up to maximum the total amount of the instruction(s). The provision of security may, exclusively to the discretion of the contractor, be requested in the form of an advance, mortgage security right and/or a right of pledge and/or a stand-by bank guarantee.
4. In the event of late advance payment or failure to provide the demanded security, the contractor is not obliged to make a start with the work or the delivery or to continue such and the contractor is, if desired, entitled, after a written notice of default, to consider the agreement terminated without being liable to pay any compensation.
5. The contractor is entitled to offset any sums it may owe to the client and other companies belonging to the same group as the client, with sums the client owes the contractor.
6. The client guarantees that the payment of the sums it is due to the contractor shall be made without any deductions, discount, settlement or (alleged) setoff.
7. If the client fails in its payment obligations towards the contractor either wholly or in part, all the legal and other costs to be incurred by the contractor to collect, or seek recourse for, its claims are for the account of the client. The client is in default without a notice of default being required on the expiry of the term referred to in paragraph 1 of this article. As soon as the client is in default it shall, up to the day of full payment, pay the statutory commercial interest on the amount it owes the contractor.
8. All that the contractor can claim from the client is immediately due and payable if and insofar the client is in default of payment as well as in the event of insolvency, application for a moratorium, cessation or liquidation of its company or a change in the control within the company or group of companies to which the client belongs.

#### **Article 10: Liability**

1. The contractor is not liable for loss resulting from an attributable failure or an unlawful act by the contractor or the legal entities or natural persons engaged by the contractor or which can be based on a different legal ground.

2. The contractor is never liable for consequential loss, which includes in any event trading loss and loss due to business interruption and/or loss of profit, or for claims commenced against the contractor or client by third parties including governments. In respect of the last-named claims, the client fully indemnifies the contractor.
3. The contractor is not liable for costs, loss and interests which might arise as a direct or indirect result of:
  - infringements of patents, licences or other rights as a result of the use of information provided by or on behalf of the client;
  - acts and omissions by the client, its subordinates or other persons engaged in the work by, due to or in the context of the instructions;
  - damage to or loss of, due to whatever cause, the goods made available by the client.
4. The limitations in liability included in paragraphs 1 to 3 inclusive do not apply if the loss is the result of an intentional act or wilful recklessness by the Board of Directors of the contractor.
5. In the event the contractor is nevertheless considered to be liable, its liability is restricted to the cover of its liability insurance plus the amount of the excess in accordance with the relevant policy. If for whatever reason this cover does not apply, the liability of the contractor is limited to the net profit margin of the services or products delivered exclusively pursuant to the current agreement and during the last year.
6. The client is liable for loss suffered by the contractor and/or third parties engaged by the contractor during the performance of the instructions, unless there is an intentional act or wilful recklessness on the part of the Board of Directors of the contractor. The client guarantees to be insured and to keep itself insured for any loss in such a way that the loss of the contractor is covered.
7. The client is fully liable for the acts or omissions of its subordinates or by the third parties it has engaged as well as for everyone who is present on the site or the water where the work is taking place.
8. The client guarantees and is exclusively liable itself towards the contractor for the constructions and working methods prescribed by or on behalf of the client including the influence this has on the soil condition as well as for the orders and instructions given by or on behalf of the client.
9. If building material or auxiliary material made available or prescribed by the client should have defects, the client is liable for the damage caused by such. By way of determination it applies that the client must prove that in the event of such defect, the damage was not caused by it.
10. The consequences of the observance of statutory regulations or decisions by authorities coming into force after the day of the offer are for the account of the client unless it must reasonably be assumed that the contractor should already have foreseen those consequences on the day of the offer.
11. The client is responsible for the condition of the place on which or in which the work has to take place.
12. If after the formation of the agreement it appears that the building land is contaminated or the building material arising from the work is contaminated, the client is liable for the ensuing consequences.

#### **Article 11: Force majeure**

1. In the event of an impediment to performance of the agreement as a result of force majeure the contractor is entitled, without redress to the court, either during the force majeure situation suspend the performance of the agreement or to terminate the agreement wholly or in part without the contractor being liable to pay any compensation.
2. Both in the event of suspension and of termination pursuant paragraph 1, the contractor is entitled to demand immediate payment for the work already carried out and materials/products already delivered in the performance of the agreement.
3. In these general terms and conditions, force majeure includes in any event any circumstance beyond the control of the contractor - even if such was foreseeable at the time of the formation of the agreement – which permanently or temporarily prevents the performance of the agreement.

#### **Article 12: Lapse of right**

1. The client can no longer rely on the fact that all that which has been carried out or delivered does not correspond with the agreement if the client has not within a reasonable time, but in any event within one month after the end of the relevant work, notified the contractor of such in writing.
2. Complaints relating to invoices must be submitted in writing to the contractor within two weeks from the invoice date, failing which any reliance on such inaccuracies lapses and the invoices are deemed by way of determination to have been undisputed.

#### **Article 13: Suspension/termination**

1. If the client fails to perform any obligation arising for the client from the agreement entered into with the contractor or from an agreement connected to it, or fails to perform it properly or on time, or if there are reasons to fear that the client is or shall be unable to fulfil its contractual obligations towards the contractor, as well as in the event of bankruptcy, a moratorium, business closure, insufficient (to be determined at the satisfaction of the contractor) credit limits or exceeding those, liquidation or partial transfer - whether or not as security – of the company of the client including the transfer of (a part of) its receivables or (part of) its shares, as well as any change of control, the contractor is entitled without notice of default or recourse to the courts being required, either to suspend the performance of (each of) these agreements or to terminate them wholly or in part such without the contractor being liable to pay any compensation and without prejudice to other rights to which the contractor is entitled.
2. The contractor also reserves the right to suspend the agreement or terminate it wholly or in part if in the view of the contractor or the actual performer of the agreement, the instructions appear to be unfeasible through no fault of the contractor or actual performer. Such all the more so if instructions in the field of geological circumstances are carried out and the client is aware that many factors could influence the performance of the instructions such as but not limited to avalanches, landslides, earthquakes, composition of soil and water, weather conditions etc. The client is notified of such as soon as possible. In the event of such a suspension, the client is not entitled to terminate the agreement and it remains

liable for the agreed payment. If, after the suspension, the agreement has as yet become feasible any additional costs such as waiting hours and material costs or the hire of such can be charged to the client.

3. In the event of suspension or termination pursuant to paragraph 1 and 2, the agreed price becomes immediately due and payable.
4. The contractor is entitled to keep the information and goods which are (partly) the property of the client for as long as the client has not satisfied its obligation under the agreement.

**Article 14: Applicable law and choice of law**

1. All legal relationships between the client and the contractor are exclusively governed by Dutch law.
2. Any dispute which might arise from this agreement or from agreements which result from it, between the client and the contractor which cannot be resolved by means of consultation between the parties shall be exclusively submitted to the District Court in Limburg, location Roermond.
3. There is a dispute if one of the parties declares that such is the case.

**Article 15: Final provision**

1. These general conditions have been filed with the Chamber of Commerce and Industries for Limburg North. They are also at all times available for inspection at the offices of the client and shall be sent free of charge on request and can be found on [www.geobnelux.com](http://www.geobnelux.com).