

## STANDARD TERMS AND CONDITIONS FOR SERVICES

### Q.E. International B.V., registered office in Bodegraven

#### Article 1 General Provisions

- In these standard terms and conditions, the following terms shall have the following meanings, unless expressly otherwise stated.
  - Service Provider:* Q.E. International B.V., having its registered office in Bodegraven, hereinafter referred to as 'Q.E. International'.
  - Client:* a natural person/persons who or legal entity which has instructed Q.E. International to perform services.
  - Agreement:* any arrangement, agreement and/or contract between the Client and Q.E. International for the performance of services.
  - Services:* all work and services to be performed by Q.E. International, either directly or indirectly, as described and set out in the agreement, including, but not limited to, the design and manufacture of and the trade in – or the arrangement of the manufacture of and the trade in – equipment for the chemical and petrochemical industries and related sectors, all in the broadest sense.
- The quality standards of Q.E. International – including the standards applicable to Q.E. International under its ISO certification – apply to the performance of the services, the results to be achieved or the best efforts obligations agreed between the parties.

#### Article 2 Applicability

- These terms and conditions apply to all legal relationships between the Client and Q.E. International, including offers, quotes, orders and agreements between Q.E. International and a Client, except as expressly otherwise agreed by the parties in writing.
- In the event of a conflict between these standard terms and conditions and any underlying agreement, the provisions of the agreement shall prevail.

#### Article 3 Offers and quotes

- All offers are without obligation, unless an offer specifies a time limit for acceptance.
- Quotes given by Q.E. International are without obligation and are valid for a period of 30 days, unless otherwise stated. Q.E. International shall be bound by a quote only if the other party confirms its acceptance of the quote in writing within 30 days, unless otherwise stated.
- Q.E. International shall not be bound by its quotes or offers if the other party should reasonably understand that the quotes or offers, or any part thereof, contain an obvious mistake or typographical error or are based on incomplete or inaccurate information.
- Offers or quotes shall not automatically apply to future contracts for services, but only to the services specified in the relevant offer or quote.

#### Article 4 Performance of the agreement

- Q.E. International shall perform the agreement to the best of its knowledge and ability and in accordance with high professional standards, on the basis of the current state-of-the-art. Q.E. International has the right to have certain services performed by third parties if and to the extent that this is necessary for the proper performance of the agreement.
- The Client shall ensure that all information in respect of which Q.E. International indicates that it is necessary for the performance of the agreement or which the Client should reasonably understand to be necessary for the performance of the agreement is provided to Q.E. International in good time.
- If it is agreed that the agreement will be performed in different phases, Q.E. International may suspend the performance of those parts that belong to a subsequent phase until the Client has approved the results of the preceding phase in writing or until the Client has fully met his payment obligations.

#### Article 5 Amendments to the agreement

If it transpires during the term of the agreement that changes or supplements to the services to be performed or the goods to be manufactured, as agreed between the parties, are required for the proper performance of the agreement, the parties shall correspondingly amend the agreement in joint consultation in a timely manner, unless Q.E. International is entitled to amend or supplement the agreement unilaterally under these terms and conditions.

#### Article 6 Term of agreement; term of performance

- The agreement between Q.E. International and a Client is concluded for an indefinite period, unless the nature of the agreement requires otherwise or the parties expressly agree otherwise in writing.
- Any deadline agreed within the term of the agreement for the completion of certain services or the delivery of goods shall not be of the essence of the agreement.

#### Article 7 Fee

- On entering into the agreement, the parties may agree a fixed fee. The fixed fee shall be specified in the agreement. If the parties do not agree a fixed fee, the fee shall be calculated on the basis of the costs and expenses actually incurred and the time actually spent by Q.E. International. The fee shall be charged to the Client in arrears and shall be calculated using the time recording system of Q.E. International, which shall be decisive.
- The fee agreed by the parties in the agreement and any cost estimates shall be net of any VAT due.
- The fee shall be charged in instalments in line with the progress of the services provided, at the discretion of Q.E. International, and in accordance with the relevant provisions set out in the agreement. Q.E. International shall be entitled to suspend the performance of its services prior to commencement of the services and/or during the term of the agreement until the Client has made such an advance payment for the services to be performed as shall reasonably be determined by Q.E. International, or until the Client has provided security therefor.

## Article 8 Payment

1. Invoices issued by Q.E. International must be paid in the manner indicated by Q.E. International within 30 days of the invoice date, in the currency stated in the invoice and without any deduction, abatement, discount or set-off. Objections to invoiced amounts shall not suspend the payment obligation and the Client shall not be entitled to set off or deduct any amounts for any reason whatsoever.
2. If the Client fails to make payment within the agreed payment term of 30 days, the Client shall be in default by operation of law without any notice of default being required. In that case the Client shall be liable to pay interest at the higher of 1.5% per month or the statutory interest rate. The interest payable on the amount overdue shall be calculated from the day on which the Client is in default until the day of payment in full.
3. Any and all judicial and extrajudicial debt collection costs and other costs incurred by Q.E. International owing to non-performance by the Client of his payment obligations shall be payable by the Client, and Q.E. International shall be entitled to charge 15% of the principal amount as costs. Q.E. International shall have the right to charge the rates listed in the fixed rate table included in the Netherlands Extrajudicial Debt Collection Costs Decree (*Besluit vergoeding voor buitengerechtelijke incassokosten*). If the said fixed rate table is amended by the legislature, the costs that may be charged by Q.E. International shall be changed and capped accordingly. The Client acknowledges that the calculation of costs in accordance with this Paragraph 3 is fair and reasonable.
4. Q.E. International may require the Client to provide (additional) security without delay in such manner as Q.E. International shall determine, if Q.E. International deems such to be necessary in view of the Client's financial position or payment record. If the Client fails to provide the required security, Q.E. International shall be entitled to suspend further performance under the agreement with immediate effect, without prejudice to any other rights Q.E. International may have, and all amounts owed by the Client to Q.E. International on any account whatsoever shall be due and payable on demand.
5. If a project has been commissioned by more than one Client, the Clients shall be jointly and severally liable for the payment of the invoice amount, to the extent that the services have been performed for the Clients jointly, regardless of the name in which the invoice is made out.
6. If the Client is liquidated, wound up, declared bankrupt, placed into liquidation, obtains court protection from creditors (moratorium) or if the Client's assets are seized or attached, all amounts owed by the Client to Q.E. International shall be due and payable on demand.
7. Q.E. International shall be entitled to apply the payments made by the Client first to the costs, then to accrued interest and finally to the principal amount and accruing interest.
8. If the Client fails to meet any payment obligation fully or on time, despite a reminder from Q.E. International and pursuant to the provisions of Paragraph 2 of this Article, Q.E. International shall be entitled to suspend performance of its obligations under the agreement in accordance with Article 12 of these terms and conditions. As soon as a Client is in default, Q.E. International will also suspend all guarantees and warranties under the agreement without notice until the Client has fully met his payment obligations. In that case, the Client shall have no rights or claims under any guarantee or warranty given by Q.E. International. The Client acknowledges that Q.E. International can never be held liable for any loss or damage arising therefrom, and indemnifies, defends and holds Q.E. International harmless from and against any claims by third parties in respect thereof.

## Article 9 Retention of title

1. All goods delivered by Q.E. International, including any designs, sketches, drafts, drawings, films, software, (digital) files, et cetera shall remain the property of Q.E. International (retention of title).
2. The Client shall not be entitled to pledge or otherwise encumber or dispose of the goods subject to retention of title.
3. The Client is required to take out and maintain insurance to cover the goods delivered to which Q.E. International has retained title against loss or damage by fire, explosion, water and theft and shall allow Q.E. International to inspect the policy in question upon request.
4. Goods delivered by Q.E. International that are subject to retention of title pursuant to Paragraph 1 of this Article may be resold in the course of normal business operations only with the prior permission in writing of Q.E. International, but may never be used as a means of payment.
5. The Client shall cooperate fully upon request if Q.E. International wishes to exercise its rights under this retention of title clause.

## Article 10 Complaints

1. Any complaints with respect to the services performed by Q.E. International and/or the goods delivered and/or the invoice amount must be submitted in writing to Q.E. International within 8 calendar days of the date of discovery or, as the case may be, within 8 calendar days of the date of completion of the services or delivery of the goods under the agreement, or within 14 calendar days of the date of discovery if the Client demonstrates that he could not reasonably have discovered the defect earlier. The complaint must describe the alleged defect, failure or non-conformity in as much detail as possible to allow Q.E. International to respond to the complaint in an appropriate manner.
2. Complaints as referred to in the preceding Paragraph shall not suspend the Client's payment obligations. Invoices already paid may never be the subject of complaints or other discussions and shall be deemed to have been approved by the Client without reservation; the Client waives all rights to make any complaints with respect thereto.
3. If a complaint is justified, Q.E. International may, at its option, (i) adjust the fee charged to the Client, (ii) provide again or rectify the rejected services at no cost to the Client, or (iii) cancel or cease performance of all or part of the services in return for a pro rata refund of the fee already paid by the Client.

## Article 11 Termination

1. Either party may terminate the agreement in writing at any time. Notice of cancellation or termination must be given in writing.
2. If the Client terminates the agreement before the end of its term, Q.E. International shall be entitled to compensation for the demonstrable loss of capacity utilization resulting therefrom, unless the termination is due to facts or circumstances that are attributable to Q.E. International. In that case, the Client shall also be required to pay the invoices issued by Q.E. International for services performed and/or goods delivered until then. The preliminary results of the services performed and/or goods delivered until then will be made available to the Client only after all outstanding amounts have been paid, and subject to such terms, conditions and reservations as Q.E. International may determine.
3. If the Client cancels the agreement in whole or in part or terminates the agreement during its term, the Client shall be obliged to compensate Q.E. International for all costs incurred in connection with

the performance of the agreement. If the Client cancels the (remaining part of the) agreement in whole or in part, the Client shall be required to compensate Q.E. International not only for the costs already incurred, but also for any loss of profits and any other loss or damage resulting from the cancellation of the agreement, subject to a minimum of 25% of the total contract price, unless the agreement provides for a different compensation arrangement.

#### **Article 12 Suspension and cancellation**

1. Q.E. International shall have the right to suspend fulfilment of its obligations or to cancel the agreement if:
  - a. the Client fails to meet or fully meet his obligations under the agreement, or
  - b. Q.E. International becomes aware, after the conclusion of the agreement, of circumstances that give Q.E. International good reason to fear that the Client will not meet or fully meet his obligations, or
  - c. the Client is requested on conclusion of the agreement to provide security for the fulfilment of his obligations under the agreement and fails to provide such security or to provide sufficient security, which shall be at the discretion of Q.E. International.
2. Q.E. International shall also have the right to cancel the agreement (or to have it cancelled) or to terminate the agreement during its term if circumstances arise that are of such a nature that performance of the agreement is impossible or can no longer be required according to the standards of fairness and reasonableness, or if other circumstances arise that are of such a nature that Q.E. International cannot reasonably be required to allow the agreement to remain in force without change.
3. If the agreement is cancelled, the amounts due to Q.E. International by the Client shall be due and payable on demand. If Q.E. International suspends fulfilment of its obligations, it shall retain its rights and entitlements under the law and the agreement, including the right to claim compensation in full from the Client.

#### **Article 13 Return of goods made available, packaging and shipment**

1. Any goods made available by Q.E. International to the Client in the context of the performance of the agreement must be returned by the Client in their original condition, free from defects and in their entirety within 14 days. If the Client fails to meet this obligation, any resulting costs shall be payable by the Client.
2. If, after a reminder, the Client still fails to meet the obligation set out in Paragraph 1 for any reason whatsoever, Q.E. International shall have the right to recover any loss, damage and costs arising therefrom, including the costs of replacement, from the Client.
3. Q.E. International shall deliver or ship the goods to the agreed location or locations in the manner specified in the agreement or as subsequently agreed.

#### **Article 14 Liability**

1. Q.E. International shall perform the services under the agreement to the best of its knowledge while exercising the due care that may be expected of it. If an error is made because the Client has furnished incorrect or incomplete information, Q.E. International shall not be liable for any loss or damage resulting therefrom.
2. If the Client suspects or establishes an omission, shortcoming or wrongful act on the part of Q.E. International and proves that he has

sustained loss or damage as a result thereof, the Client must notify Q.E. International accordingly in writing as soon as possible, but within 30 days of the date on which such suspicion arises or such fact is established, and give Q.E. International an opportunity to remedy and/or repair the omission, shortcoming, loss or damage. The Client must provide documentary evidence of the omissions or shortcomings.

3. If the Client proves that he has sustained loss or damage caused by the fault of Q.E. International which would not have been caused if Q.E. International had acted with due care, or loss or damage as a result of a wrongful act on the part of Q.E. International, Q.E. International shall be liable for such loss or damage only if it concerns (direct) loss or damage which is the direct result of a negligent or intentional breach or a series of connected negligent or intentional breaches of performance of the agreement. Any liability on the part of Q.E. International is limited to an amount equal to the payment received by Q.E. International under the relevant liability insurance policy in the case in question, plus any excess payable by Q.E. International under that insurance policy. If no payment is made under the said liability insurance policy for any reason, the liability of Q.E. International is limited to an amount not exceeding the fee charged for the performance of the agreement, based on the (direct) loss or damage in fact sustained calculated on the basis of the agreed price for the product delivered.
4. Under no circumstances shall the total amount payable under this Article in compensation for loss or damage exceed the amount of € 250,000 per event, a series of connected events being considered a single event.
5. Q.E. International shall never be liable for indirect loss or damage, including consequential loss or damage, loss of profits, unrealized savings and loss or damage due to interruption of business operations.
6. Q.E. International shall always have the right to repair or limit the Client's loss or damage, if and to the extent possible, and the Client shall be required to lend every assistance to Q.E. International for that purpose.
7. If the Client intends to hold Q.E. International liable for loss or damage, the Client shall consult with Q.E. International before making the liability claim. The Client shall also be required to take measures to mitigate the loss or damage where possible.
8. Q.E. International shall not be liable for loss of or damage to documents or goods during transport or carriage by post, air or sea, regardless of whether they are transported or carried by or on behalf of the Client, Q.E. International or third parties.
9. Q.E. International shall not be liable for loss or damage sustained by the Client or third parties resulting from the provision of incorrect or incomplete data or information by or on behalf of the Client to Q.E. International or otherwise resulting from actions or omissions of or on behalf of the Client.
10. Q.E. International shall not be liable for loss or damage sustained by the Client or third parties resulting from actions or omissions of auxiliary persons (including employees of Q.E. International) deployed by Q.E. International, even if they work for an organization that is associated with Q.E. International.
11. Direct loss or damage only means:
  - a. reasonable costs incurred to determine the cause and scale of the loss or damage, to the extent that such determination concerns loss or damage within the meaning of these terms and conditions;
  - b. reasonable costs incurred to ensure that Q.E. International's defective performance satisfies the agreement, to the extent that such costs are attributable to Q.E. International;
  - c. reasonable costs incurred to prevent or limit loss or damage, to the extent that the Client demonstrates that

such costs resulted in limitation of direct loss or damage within the meaning of these standard terms and conditions.

12. The limitations of liability for direct loss or damage contained in these terms and conditions shall not apply to any loss or damage caused by wilful intent or gross negligence on the part of Q.E. International or the staff under its control.

#### **Article 15 Force majeure**

1. The parties shall not be bound to fulfil any obligation if they are prevented from doing so by circumstances that are beyond their control and for which they cannot be held accountable by law, on account of a juristic act or in accordance with generally accepted standards and practices.
2. Q.E. International may also claim force majeure if the circumstance preventing (further) performance arises after Q.E. International should have fulfilled its obligations.
3. The parties may suspend the performance of their obligations under the agreement during the force majeure period. If this period lasts longer than two months, either party may cancel the agreement without being liable to the other party for compensation.
4. To the extent that Q.E. International has already performed or is still able to perform part of its obligations under the agreement when a force majeure event occurs, and if an independent value can be attributed to the part that has been or will be performed, Q.E. International shall be entitled to charge the Client separately for the part that has been or will be performed. The Client shall be obliged to pay the invoice as if it were payable under a separate agreement.

#### **Article 16 Non-disclosure**

1. Each party shall be obliged to maintain the confidentiality of any confidential business information which is disclosed to it under the agreement by the other party or by other sources. This non-disclosure obligation covers all confidential information which is disclosed by one party to the other, as well as the results obtained from processing such information. Information shall be considered confidential if it is designated as confidential by the other party or if this follows from the nature of the information.
2. If Q.E. International is required by law or a court order to disclose confidential information to third parties identified by law or a competent court and if Q.E. International is unable to invoke a privilege of non-disclosure acknowledged or granted by law or by a competent court, Q.E. International shall not be liable for compensation or indemnification, and the other party shall not be entitled to cancel the agreement on account of any resulting loss or damage.

#### **Article 17 Intellectual property rights and copyrights**

1. Without prejudice to the other provisions of these standard terms and conditions, Q.E. International reserves all rights and powers vested in Q.E. International under the Copyright Act in the Netherlands and the relevant international legislation on the protection of (trade) marks, intellectual property rights and/or patents. This applies in particular to all drawings, reports, recommendations, software, etc. made, prepared and developed by Q.E. International. The Client declares that he will fully respect those rights and powers and that he will refrain from doing anything that may prejudice them.
2. All materials provided by Q.E. International, such as reports, recommendations, agreements, designs, sketches, drafts, drawings, software et cetera, are intended for sole use by the Client and may not

be reproduced, published, circulated, distributed or otherwise disclosed to third parties by the Client without Q.E. International's prior permission in writing, unless the nature of the materials in question implies otherwise.

#### **Article 18 Miscellaneous provisions**

1. Any disputes relating to or arising out of the agreement or these standard terms and conditions shall be subject to the exclusive jurisdiction of the Dutch courts. The parties shall not institute legal proceedings until it is evident that they are unable to settle the dispute in question out of court despite making every effort to do so. The parties may also agree to attempt to resolve a dispute by mediation, in which case they shall engage an NMI-registered mediator.
2. All agreements between Q.E. International and the Client shall be governed by the laws of the Netherlands. The UN Convention on Contracts for the International Sale of Goods (CISG) is expressly disclaimed by the parties.
3. These terms and conditions have been lodged with the Chamber of Commerce in Gouda.
4. In case of inconsistency or contradiction in interpretation or translation, the Dutch text of these terms and conditions shall prevail. The most recently lodged version shall apply in all instances or, as the case may be, the version in force at the time of conclusion of the agreement.

Bodegraven, August 2012