

STANDARD TERMS AND CONDITIONS – DEEP B.V. (Dec 2021)

1 Definitions, Applicability

- a) "DEEP": Deep BV.
- b) "Client": any individual or legal person that requests a quotation from DEEP and/or enters into an Agreement with "DEEP".
- c) "Agreement": any agreement between DEEP and the Client (including but not limited to agreements concerning the provision of services comprised of hydrographic or geophysical surveys).
- d) All quotations, requests for quotations and Agreements shall be governed exclusively by these Standard Terms and Conditions. Derogations from and additions to these Standard Terms and Conditions shall be valid only if explicitly recorded in the Agreement and/or quotation.
- e) If the Client explicitly disputes the applicability of these terms and conditions at the time of entering into the agreement and/or refers to other terms and conditions, the agreement will be deemed not to have been concluded.
- f) If at the time of entering into the agreement the Client does not explicitly dispute the applicability of these terms and conditions, any other terms and conditions that the Client may have shall not be applicable, unless explicitly agreed in writing by DEEP.

2 Partial Nullity and Voidability

- a) If one or more provisions of these Standard Terms and Conditions are null and void, voidable, or invalid for any other reason, the validity of the other provisions shall remain unaffected. Provisions that are null and void, voidable or invalid shall be deemed to be replaced by provisions that match the intended aim and object of the original provisions as closely as possible.

3 Quotation, Conclusion of the Agreement

- a) Quotations by DEEP are free of obligation, are not binding, and are valid for a period of 30 calendar days starting from the date of the quotation, unless explicitly agreed in writing by DEEP.
- b) An Agreement is concluded only once the Client has returned the unconditionally signed quotation to DEEP and DEEP has confirmed the Agreement. DEEP will not commence with the execution of the Agreement until the Agreement has been concluded. If the urgent nature of the work or any other reason requires DEEP to commence the performance of the work before the Agreement has been concluded, these Standard Terms and Conditions shall also apply to that work and to the oral agreements.
- c) Sketches, illustrations, measurements, weights or other specifications, including without limitation any proposed (start)dates, delivery dates and/or lead times, shall be binding only if explicitly agreed in writing.
- d) Any terms, amendments and additions to the Agreement shall always be agreed in writing. DEEP shall not be bound by undertakings that are given orally.
- e) DEEP is entitled, at its own discretion, to engage independent auxiliary persons or hired workers for the execution of the Agreement without requiring the permission of the Client to do so.

4 Authority

- a) Only those who are entitled to bind DEEP by virtue of its articles of association and/or an entry in the relevant registers of the Chamber of Commerce and Industries shall have the authority to enter into agreements for DEEP. It should be noted that representatives, agents or other persons not belonging to the DEEP management team shall not have the authority to enter into an Agreement that is binding for DEEP. Undertakings given orally in the form of terms agreed with DEEP employees shall be binding for DEEP only if and insofar as they are confirmed by DEEP in writing.

5 DEEP's Services

- a) DEEP shall make its best efforts to perform its services to the best of its ability and to execute the Agreement as well as possible, with the greatest possible care and in accordance with the generally recognised technical practices prevalent at the time when the Agreement was concluded. In the event specific standards, regulations and/or methods are prescribed, DEEP shall perform its Services in accordance with such standards, regulations and/or methods.
- b) The products to be supplied by DEEP shall be comprised of a standard report and standard charts, as specified in the quotation. If and insofar as the Client wishes changes to be made, the implementation of such changes shall be regarded by DEEP as additional work and shall be charged for accordingly.
- c) Where additional work is to take place, the delivery/execution period will be extended by the time required to supply or arrange for the supply of the necessary equipment and parts and to perform the additional work.
- d) The results of a geophysical survey strictly provide an indirect insight into the underground conditions in the soil at the time of the measurement. The results are interpretations of the measurement values at that time.
- e) DEEP gives no guarantees concerning the satellite reception for the positioning, the physical characteristics and penetration of the soil and the suitability of the selected measurement technique(s).
- f) Given the possible presence of obstacles to the performance of hydrographic and geophysical surveys (including but not limited to: surfaces that are not freely accessible, objects, plants, trees, structures, floating ice, extreme weather conditions, impaired visibility, moored ships etc), DEEP does not guarantee that all sites will be surveyed. The Client shall at all times carry the risk of such limitations.
- g) If weather conditions prevent DEEP's work from going ahead or cause delay, any resulting costs or delay will be for the account of the Client. If the site of the project makes demobilisation impossible, DEEP shall charge a stand-by fee, as yet to be agreed (unless such rate is provided by DEEP), for the duration of those weather conditions and/or the period during which the survey is put on hold.

- h) If access to the measurement area is refused and/or is impossible or otherwise limiting performance of DEEP based on its quoted work methods and equipment, for whatever reason, no measurements will be taken at the site in question. If, at the Client's request, the measurements shall be performed at a later stage, that work will be charged for as additional work based on the time actually spent on it.
- i) The interpretation of measurements using automatic and/or manual techniques shall be performed by DEEP to the best of its ability. DEEP does not guarantee the accuracy of the interpretation or use of the measurement results.
- j) DEEP reserves the right to use different equipment with equivalent or better specifications.
- k) The employees of DEEP work according to the guidelines laid down in health and safety legislation and the company-wide HSE manual in order to guarantee employee safety during the work. No activities will be performed at locations where, in the opinion of DEEP employees, it is not possible to work safely.

6 Obligations of the Client

- a) The Client shall provide DEEP, in a full and timely manner, with the information and decisions that are necessary to enable DEEP to execute and complete the Agreement properly. DEEP reserves the right to suspend any activities, at its own discretion, until such time as such information is properly received by DEEP.
- b) The Client shall ensure that DEEP's staff and auxiliary persons have free and safe access to the area/working area where DEEP is to perform the services or deliver the products.
- c) If and insofar as is requested by DEEP, the Client shall ensure the timely and sufficient provision of electricity, water, sanitary facilities, a site hut, a canteen area, and storage space for equipment and materials.
- d) The Client shall ensure that the site/work site, the building and the storage space for equipment and materials are closed and secured properly.
- e) The Client shall ensure that DEEP's staff and auxiliary persons are aware of all the applicable safety standards, health, safety and environmental rules of the Client and/or those that are specifically applicable to the execution of the Agreement.
- f) The Client shall arrange for all the necessary private and public law consents, such as but not limited to all required permits.

7 Price and Payment

- a) The tender amount and/or prices specified in the quotation and in the Agreement are exclusive of the turnover tax (VAT) that is payable.
- b) DEEP shall be entitled to make charges for rises in the price of equipment, rent, freight, salary and social security costs. The quotation date shall be the reference date for price-level purposes.
- c) In the case of longer term Agreements, DEEP shall be entitled to revise the price level yearly in view of increases in the price of equipment, rent, freight, salaries and social security costs.
- d) If the Agreement and/or Quotation specifies a payment schedule, the Client shall pay the tender amount in accordance with the deadlines specified therein. Those deadlines shall be considered as final, even if they are backed up by an invoice. If the Agreement does not contain a payment schedule, DEEP shall invoice the tender amount immediately after the work is completed or on a monthly basis proportionate to the progress of the services or deliveries to be provided by DEEP.
- e) The Client shall pay DEEP's invoices within 30 calendar days after the invoice date. This payment period shall be regarded as a strict deadline and will not detract from any deadline stipulated in a payment schedule.
- f) The Client must challenge the accuracy of an invoice or any item(s) therein within 15 calendar days, stating reasons, otherwise the accuracy thereof will be incontrovertible. If the Client contests the correctness of any item in an invoice, stating reasons, it will still be required to pay all the uncontested items. If the contested item transpires to be payable after all, the original due date shall apply to it.
- g) If the Client does not comply with its payment obligation in a timely manner it will be in default without notice of default being required and DEEP will be entitled to opt either to suspend performance under the Agreement and/or any agreements or activities in relation to the same Client, or; dissolve the Agreement by means of an extrajudicial declaration; or to claim specific performance, in which case the statutory (commercial) interest will be charged on the outstanding debt from the date of default until the date of full payment, without limiting any of DEEP's rights and remedies whether contractually or at law
- h) In the event of an attributable failure by the Client to comply with an obligation in the form of failure to make payment or to make payment in a timely manner, DEEP will be entitled to charge the Client for all extrajudicial costs connected with collecting the amount in question and the Client shall be obliged to pay those costs.
Payment shall be made without making any deductions from the sums due to DEEP on account of any counterclaim.

8 Delivery and Execution Periods

- a) The delivery and/or execution periods specified by DEEP and stipulated in the Agreement are approximate periods and shall never be regarded as strict deadlines, unless explicitly agreed otherwise. In the event that the Agreement does not specify any delivery and/or execution periods, DEEP shall not be bound by any delivery and/or execution periods whatsoever.
- b) With due regard to the provision contained in article 12, DEEP shall be liable only for direct losses demonstrably incurred by the Client due to breaches of delivery and/or execution periods agreed in writing, provided that and insofar as the breach is attributable to negligence, a lack of care or mistakes by DEEP.
- c) DEEP is obliged to notify the Client of any circumstances that may hinder the execution of the Agreement within any delivery and/or execution periods that have been agreed in writing.

9 Ownership and Use of Data

- a) All plans, reports, sketches, calculations and documents produced by DEEP by order of the Client shall become the property of the Client once the latter has paid for them and may be used by the Client only for the purposes for which they were produced.
- b) All data provided to and/or items delivered to the Client shall remain the property of DEEP until the Client has fully paid all sums owed, including interest accrued.
- c) The copyright to all the data referred to in the previous paragraph shall vest exclusively in DEEP. Full or partial publication or reproduction is permitted only with DEEP's prior written consent. The same shall apply to the passing on and repeated use of such data by third parties or by the Client itself.
- d) The intellectual property rights to the techniques used by DEEP in the execution of the Agreement shall vest exclusively in DEEP. The Client shall not be entitled to any licence or right of use in respect of the techniques applied by DEEP.
- e) If during or as a result of the execution of the Agreement an invention emerges that DEEP believes to be patentable, only DEEP shall be entitled to apply for a patent for that invention, in its own name and for its own account. The Client shall not be entitled to any licence or right of use in respect of a patentable invention.

10 Confidentiality, Advertising

- a) The Client and DEEP are obliged to maintain the confidentiality of all information provided by the other party and considered as confidential, in any form whatsoever.
- b) DEEP shall be entitled to publicise the project to which the Agreement relates for advertising purposes.
- c) The Client is obliged to mention DEEP's name in any publications about the project and the work performed by DEEP, published in any form and spread through any medium whatsoever.

11 Dissolution, Premature Termination

- a) If the Client fails to comply or to comply in a proper or timely fashion with any obligation that arises for it from the Agreement concluded with DEEP or a connected agreement, DEEP will automatically be entitled to suspend any performance and/or performance under any other agreement in relation to the Client; and/or fully or partially dissolve the Agreement by means of an extrajudicial declaration without any further notification or notice of default being required and will also be entitled to claim the losses it has incurred due to the dissolution, without any limitation to DEEP's other rights and remedies, whether contractually or at law.
- b) DEEP will also be entitled to dissolve the Agreement at the moment when the Client is declared bankrupt or is granted a moratorium on payments, or the Client or its business is shut down or wound up, or in the event of attachment, debt rescheduling becoming applicable, a guardianship order or if the Client loses the power to dispose of all or part of its property in any other way, unless the bankruptcy trustee or administrator acknowledges the obligations arising from this agreement as debts of the estate.
- c) In the event of dissolution, any mutual claims shall become payable immediately. The Client shall be liable for the losses incurred by DEEP, including but not limited to loss of profit, obligations undertaken in relation to third parties for the Client's benefit and any transportation costs.
- d) If, after the Agreement is concluded, circumstances come to light that give DEEP good grounds to fear that the Client will not comply with its obligations, DEEP will be entitled to suspend the performance of its obligations. In the event of suspending performance, DEEP is entitled to require the Client to provide sufficient security, in a manner and form acceptable to DEEP for compliance with all of its obligations. The Client shall be obliged to provide such security upon first request of DEEP.

12 Liability of DEEP

- a) An attributable failure by DEEP to comply shall have taken place only if, despite being summoned to do so and including at all times a reasonable period to remedy such failure, DEEP fails culpably to execute the Agreement in a way that a good consultancy firm, having the professional knowledge and equipment required for the assignment and acting with due care, could have and ought to have avoided.
- b) DEEP's liability is limited to a maximum of the tender amount.

- c) In the case of defective equipment that had been found to be working properly when tested by DEEP, the resulting consequences (financial and otherwise) that arise for the Client will be for the account of the Client and the consequences that arise for DEEP will be for the account of DEEP.
- d) All relevant equipment will be tested prior to mobilisation. If a delay arises due to equipment failures, DEEP shall repair or replace the equipment as quickly as possible. However, losses arising for the Client and/or third parties, including but not limited to suppliers and shipping companies, as a result of such delays shall not be borne by DEEP BV.
- e) DEEP shall never be liable to the Client for indirect and consequential losses, including but not limited to trading losses, operating losses, loss of profit and loss of turnover, regardless of the description given to such losses and the way in which they arise.
- f) The limitations of liability as included in clause 12 sub (b) to (e) shall not apply in the event of gross negligence or wilful misconduct of DEEP's senior supervisory personnel (i.e.: its directors).
- g) All claims by the Client arising from an attributable failure by DEEP to comply will lapse two years after the Client discovers the failure or reasonably ought to have discovered it, and in any case five years after the assignment has been completed by DEEP.

13 Force Majeure

- a) In the event of a non-attributable failure on the part of DEEP to comply with the Agreement, the approximate delivery periods specified in the Agreement will be extended by the period during which DEEP has been obstructed from complying with its obligations by the non-attributable failure.
- b) A failure that is not attributable to DEEP shall be understood to mean any event independent of the will of DEEP that temporarily or permanently obstructs or delays compliance as well as, insofar as not covered by the foregoing, war, the threat of war, civil war, disorder, acts of war, fire, water damage, flooding, strikes, sit-ins, lockouts, import and export restrictions, government measures, including quarantine-measures and auxiliary consequences of epidemics or pandemics, mechanical faults, disruptions to the energy supply and all circumstances at DEEP's business and the businesses of third parties from which DEEP must obtain some or all of the necessary equipment or raw materials, as well as in storage or during transportation whether carried out by the company itself or otherwise, in addition to all other causes that are not due to the fault of DEEP and are not considered to be at the risk of DEEP. The previous shall not limit the applicability of the statutory regime for force majeure (art. 6:75 Dutch Civil Code).
- c) If force majeure arises when the Agreement has already been partially executed and, as a result of the force majeure, the remaining deliveries become entirely impossible or will be delayed by more than four months, the Client will be entitled either to retain the goods that have already been delivered and pay the price due for them, or to regard the Agreement, including the part thereof that has already been executed, as having been terminated subject to the obligation to return the delivered goods to DEEP at the Client's own risk and account, provided that the Client can demonstrate that it can no longer effectively use those goods that have already been delivered due to the non-delivery of the remainder of the goods.
- d) If DEEP fails to comply with any of its obligations as a result of force majeure, DEEP will never be liable to the Client for losses arising in any way whatsoever and will be entitled, without judicial intervention, to opt either to suspend the execution of the Agreement for no more than six months or to dissolve the Agreement in full or in part, in both cases without being obliged to pay any compensation.

14 Applicable Law, Settlement of Disputes

- a) All Agreements to which these terms and conditions are fully or partially applicable shall be governed exclusively by Dutch law.
- b) Any dispute that may arise as a result of an Agreement to which these terms and conditions are fully or partially applicable or any further Agreement, or from further Agreements that may follow from such an Agreement, shall be subject to the exclusive jurisdiction of the Courts of Rotterdam, the Netherlands.