

## **GENERAL TERMS AND CONDITIONS BCI ROTTERDAM B.V.**

### **1. General**

1.1 Within these conditions and except as otherwise provided for herein, the following terms are used with the meaning given below:

BCI: The private company with limited liability BCI Rotterdam B.V. incorporated under the laws of the Netherlands, having its statutory seat and registered office in (3082DD) Rotterdam, the Netherlands at the Grondherendijk 19A, registered under number 65186001 in the trade register of the chamber of commerce and industry, Rotterdam, The Netherlands.

Client: BCI's contracting party or potential contracting party in any Agreement as referred to in this article and these Conditions and the party granting an instruction for the performance of Services by BCI.

Conditions: These general terms and conditions of BCI.

Agreement: Any agreement of whatever nature concluded between BCI and the Client

Force majeure: Any circumstance outside of BCI's influence or control or any circumstance which was not reasonably foreseeable and which temporarily or permanently hinders BCI's performance of its obligations under the Agreement or performance of its Services

1.2 BCI is a member to the Federation of Oils, Seeds and Fats Associations Ltd ("FOSFA"), at 4-6 Throgmorton Avenue London, EX2M 2DL, United Kingdom.

1.3 On request, these Conditions will be promptly supplied to Client free of charge.

### **2. Application**

2.1 These Conditions apply to all offers, tenders, Agreements and services of whatever nature provided by or on behalf of BCI to the Client and to all Agreements to which BCI is a party including, the formation of these agreements as well as to all Services provided by BCI.

2.2 Application of the Client's terms and conditions is explicitly rejected.

2.3 Any deviation from these Conditions will not be valid unless and insofar as BCI and Client have explicitly agreed to the deviation in writing. Such deviation has no effect with regard to any other (future) contracts.

**3. Offers**

- 3.1 All BCI's offers and tenders by BCI are free of engagement, unless the tender mentions a term for acceptance.
- 3.2 Oral agreements by BCI shall only be binding upon BCI after and insofar as they have been confirmed by BCI in writing.
- 3.3 Offers that are based (or partly based) on third party offers (for example freight quotations and stowage charges) or that are subject to price fluctuations, are without commitment, even when this does not explicitly appear from the offer.

**4. Prices**

- 4.1 All prices quoted by BCI are inclusive of all costs necessary for the completion of the order and specifications as specifically described in the offer and are exclusive of cost of import duties, freight, reimbursements, taxes, import duties, levies, fines, administrative charges, insurance, telex, telephone, fax, postage, and/or other charges or costs by whatever name. The excluded costs are for Client's account and risk and shall be paid to BCI on demand unless otherwise agreed upon.
- 4.2 All offers are based on the performance of the Services and work 24 hours per day, 7 days a week. Waiting time and delays beyond BCI's control, will be for Client's account.
- 4.3 In case a project continues for over 3 months prices quoted by BCI shall be for a period of 3 months after the Agreement was concluded, without prejudice to the BCI's right to alter the stipulated prices at any moment because of cost price increasing conditions as referred to in article 4.4.
- 4.4 All prices quoted by BCI are based on price determining factors known at the moment when the offer was made. BCI may adjust the price or parts of it for services that have not yet been rendered or paid if there are any changes in price determining factors.
- 4.5 When no price quotation can be made in the offer (consider, for instance, investigations, expertise's and laboratory work), the fee chargeable to Client will be determined by BCI in accordance with the requirements of reasonableness and fairness and sound business practice, after completion of the work.
- 4.6 Unless agreed otherwise, accounts are made out in Euros and settlement shall be made in the same currency. The risk of exchange rate differences shall be for Client's account

**5. Payment**

- 5.1 Payment shall be effected within 14 after the date of invoice, unless agreed upon otherwise.
- 5.2 Payment must be made without setting off any amounts against it, reductions or delays due to whatever reason. The Client's obligation to pay continues to exist at all times even if the Client has made payment arrangements with third parties or has involved third parties to pay. Client is not entitled to suspend payment.
- 5.3 If payment of the amounts due has not been received by BCI on the fourteenth day after invoice date at the latest (or - in case the parties have agreed otherwise - on the last day of the agreed term of payment), Client and in general the debtor is in default and legal interests pursuant to article 6:119a Dutch Civil Code (art. 6:119a BW) shall be payable on BCI claims, without a notice of default being required.
- 5.4 If the Client fails to pay the amount due within the period as mentioned in article 5.3 and after first claim of BCI an additional amount of 10% over the principal amount becomes payable for collection and extra-judicial costs.
- 5.5 Outstanding amounts become immediately payable in case of failure to pay an agreed instalment promptly on the due date (irrespective of whether BCI has already invoiced the remainder of amounts to Client), or when Client's bankruptcy has been declared or when it has requested suspension of payments, or it has been placed under guardianship or when its property is subject to attachment or its company is being liquidated.

**6. Retention, pledge and securities**

- 6.1 BCI shall have the right to retain goods, documents, reports and moneys for account and risk of Client and/or owner of said goods, documents, reports and moneys until the full settlement of its claims on the Client and/or the owner.
- 6.2 All goods, documents, reports and moneys BCI holds or will hold for whatever reason and for whatever purpose, shall serve as security for its claims referred to in article 6.1.
- 6.3 A right of pledge is established on all goods documents, reports and moneys that BCI holds or will hold in relation to the Agreement as security for all claims that BCI has or will have on the Client and/or owner of the goods documents, reports and moneys.
- 6.4 BCI may regard any party who, on behalf of Client, entrusts goods, documents, reports and moneys to BCI for the performance of its services, as a party authorized by Client to establish a right of pledge on the documents, reports and moneys.

- 6.5 In case of non-payment of the debt BCI shall have the right to undertake or to order the sale of the goods, documents, reports and moneys or other items it has in its possession under the right of retention.
- 6.6 If BCI periodically charges the Client amounts, each instalment shall be considered a claim in terms of the provisions in this article. This shall also apply to instalments the Client still owes because of previous agreements.
- 6.7 If a dispute arises on settlement of amounts due or if said amounts cannot be calculated promptly the Client shall, on BCI's demand, instantly provide adequate collateral security in the form required by BCI for meeting its obligations as referred to in article 5 hereof, and to supplement such security if necessary for meeting all its obligations. As long as the Client has not complied with such request, BCI shall have the right to suspend the performance of his obligations.

## **7. Services**

- 7.1 BCI's services can include any of the following: supervising, inspecting, tallying, measuring, analyzing, sampling, determining the weight, performing loss adjustments, claim settlement, customs work, advising and the like, everything in the widest sense of the word, as such activities are customarily performed by supervisory and/or inspection companies, grain factors and/or grain forwarding agents, consultants, research and loss adjustment agencies, laboratories or combinations thereof as well as any other activities customarily performed by supervisory and/or inspection companies or grain factors and/or grain forwarding agents.
- 7.2 BCI has the right to accept several inspection assignments regarding cargo survey and/or inspection work from different Clients in respect of individualized (bulk) goods, provided always that the objectivity of the findings and the interests of the respective parties are not impaired.

## **8. Execution of services**

- 8.1 BCI undertakes to perform its services with the care required by the nature of the task.
- 8.2 BCI has the right, at its entire discretion, to delegate all or part of the execution of the Services to any agent and/or subcontractor.
- 8.3 BCI provides its Services in accordance with the Clients instructions, as accepted by BCI. The Client is expected to provide sufficient information, specifications and instructions to enable BCI to evaluate and/or carry out the services required.

**9. Handling of samples**

- 9.1 BCI undertakes to keep available all samples BCI has drawn and/or collected, if not forwarded in accordance with the Clients instructions, for a period of 90 days, after which BCI shall be entitled to dispose of the samples.
- 9.2 If the Client prescribes other storage places than those BCI made available or requires storage exceeding the duration of the applicable storage period, the storage of the samples shall be for Client's account and risk.
- 9.3 Storage of samples that in BCI's opinion and/or under Government regulations require separate storage, shall be for Client's account and risk

**10. Issue of Reports and Certificates**

- 10.1 BCI undertakes to draw up written and detailed reports on the basis of its own findings, as soon as possible after having collected the necessary data in accordance with instructions received. BCI does not have the obligation to refer to, give an opinion upon, or announce facts or circumstances which go beyond the framework of the Agreement.
- 10.2 BCI shall never release aforementioned reports to third parties, unless instructed otherwise by the Client.
- 10.3 BCI will draft reports in English.

**11. Termination**

- 11.1 If an agreement that according to its nature and content does not terminate by completion it can be terminated fully or partly without judicial intervention by BCI, subject to a notice period of at least 2 months at BCI's discretion without any liability to the Client.
- 11.2 Either party may fully or partly terminate the agreement with immediate effect without notice of default and without judicial intervention, by notice in writing, if any of the following situations occur:
  - (a) the other party applies for a suspension of payments or the other party is granted a suspension of payments,
  - (b) the other party files a petition for (his own) bankruptcy or the other party is adjudicated bankrupt,
  - (c) the other party's company is dissolved or liquidated, otherwise than for the purpose of a reconstruction or merger of companies.The party terminating the agreement in any of the above circumstances shall not be obliged to pay any compensation.
- 11.3 Termination of the agreement shall not discharge the parties from their current obligations under the Agreement. Payment obligations relating to commitments

already made or to work performed and services rendered prior to the time of termination shall remain in full force. In case of termination BCI shall have the right to demand immediate payment of all outstanding amounts, regardless of whether or not the amounts are already due and payable.

## **12. Force majeure**

- 12.1 In case of force majeure (including strikes in companies other than BCI, unofficial strikes or political strikes in BCI's company, lockouts, sickness, import, export and/or transit bans, restrictive government measures, transport problems, non-performance of obligations by suppliers or subcontractors, production stoppages, natural and/or nuclear disasters and war and/or threat of war) BCI will be either entitled to suspend the performance of its obligations to the Client, or to dissolve the entire Agreement or parts of it without any court interference and without obligation to pay any damages, at the discretion of BCI.
- 12.2 If BCI has already performed part of its obligations or is able to perform only part of its obligations at the onset of the force majeure situation, it may send a separate invoice for the part of its obligations it has already executed or the part which can be executed. The Client must pay the invoice as if it were a separate contract. This rule does not apply, however, if the part which has been executed or which can be executed cannot stand on its own.
- 12.3 If BCI executes the part of its obligations which were suspended due to force majeure at a later date, the Client must pay for the entire performance parties agreed on without being entitled to any reduction.

## **13. Liability**

- 13.1 BCI will only be liable for damage suffered by the Client due to negligence, tort or otherwise, if this damage is caused directly by gross negligence or wilful intent on the part of BCI or its directors.
- 13.2 BCI is in any event not liable for damage (including death, injury, loss, missing, et cetera) exceeding a total amount equal to 10 times the fee charged or to be charged by BCI under the Agreement. The liability shall never exceed a total amount of € 25,000.
- 13.3 Under no circumstances can BCI be held liable for any damage caused by delay, nor for any consequential or indirect damage, including damage caused by loss of profit, loss due to stagnation in operations, loss of income any saving that failed to materialise or operational interruptions in Client's company.
- 13.4 Client is liable for all consequences as a result of non- or late supply of information, documents and/or instructions or from the supply of incorrect, inadequate or incomplete information, documents and/or instructions

**14. Indemnity**

- 14.1 Client shall indemnify and hold harmless BCI and its subsidiaries, their directors, servants, employees, subcontractors and/or insurers against any and all claims, losses and or damage from third parties (including clients' employees) in relation to the performance of or connected with the Agreement.

**15. Third party clause**

- 15.1 The provisions contained herein regarding exclusion and limitation of liability as well as regarding BCI's indemnity and termination/prescription of the right of action shall also apply to and in behalf of BCI's employees and of third parties he has engaged in any manner as well as of its employees.

**16. Notification of claim and prescription**

- 16.1 Client must inform BCI immediately, at any rate not later than within 3 days after irregularities or damage is discovered, in writing and in detail. Without such notification within the specified time of 3 days all possible entitlement to indemnity shall cease.
- 16.2 All claims relating to the Agreement will lapse 9 months after the execution of the services.

**17. Applicable law and jurisdiction**

- 17.1 Dutch law applies to all Agreements, performance of services and any other relations between IBC and the Client and to these Conditions.
- 17.2 Any dispute regarding Agreements entered into by BCI with Client(s) and regarding these Condition can only be brought before the Dutch competent court in Rotterdam, the Netherlands.
- 17.3 Contrary to article 17.2, BCI is entitled to submit a dispute relating to the collection of a sum which the Client owes to BCI to the competent court in the place of business (in the country) of Client and have this court rule on the dispute.