

General terms and conditions

GENERAL TERMS AND CONDITIONS FOR SERVICES RENDERED AND DELIVERED

From: AviationAudits.nl
Nieuwstraat 52
2152 BG NIEUW VENNEP, NETHERLANDS
Hereafter: AviationAudits.nl

These General Terms and Conditions were filed with the District Court of Haarlem, on October 23rd 2007 under number 41/2007.

Article 1 Definitions

1. In these General Terms and Conditions the following terms are used in the meaning as described below, unless explicitly stated otherwise.
AviationAudits.nl: the User of the General Terms and Conditions;
Principal: the other party with which the User enters into an agreement
Agreement: the Agreement to deliver services

Article 2 General

1. These conditions apply to each offer, quote and agreement between AviationAudits.nl and a party to which AviationAudits.nl has stated that the conditions apply, insofar parties have not explicitly and in writing deviated from these conditions.
2. These conditions apply also to all agreements with AviationAudits.nl for which third parties are necessary for execution thereof.
3. Possible deviations to these general conditions are only valid if agreed upon explicitly in writing.
4. The application of other possible conditions of the Principal is explicitly rejected.
5. If any of the provisions in these general conditions are declared null or void, the other provisions of these general conditions will remain fully in effect and AviationAudits.nl and the Principal will consult to agree to new provisions to replace the ones that are null or void. In doing so, the purpose and meaning of the null and void provision will be taken into account as far as possible.

Article 3 Offers and Quotes

1. All offers made are free of obligations, unless a written term of acceptance is stated in the offer.
2. Offers made by AviationAudits.nl are free of obligations and hold for a period of thirty days, unless stated otherwise. AviationAudits.nl is bound to the offer only if acceptance by the Other Party has been confirmed in writing (letter, fax or email) or orally within 30 days, unless stated otherwise.
3. The prices in the aforementioned offers are excluding Dutch VAT and other levies prescribed by the government, as well as possible expenses made in the scope of the agreement, such as postage and administrative expenses, unless explicitly stated otherwise.
4. If the acceptance (on subordinate points) deviates from that stated in the offer, AviationAudits.nl will not be bound by it. The Agreement will not commence according to this deviating acceptance, unless AviationAudits.nl has otherwise indicated.
5. A composite offer does not oblige AviationAudits.nl to perform a part of the assignment for a corresponding part of the quoted price.
6. Offers or quotes are not automatically valid for future commissions.
7. AviationAudits.nl has the right to require a down payment of the Principal. If a down payment has been required from the Principal, the work will only start after receipt of the down payment.

Article 4 Execution of the Agreement

1. AviationAudits.nl will execute the Agreement to the best of its knowledge and capacity and in accordance with the regulations of proper professional workmanship. All this is based on the latest scientific knowledge.
2. If and insofar as a proper execution of the agreement requires it, AviationAudits.nl has the right to have certain work performed by third parties.
3. The Principal will ensure that all data of which AviationAudits.nl indicates that is necessary to execute the assignment or of which the Principal would reasonably know that is necessary, is timely provided to AviationAudits.nl. If the data required for the execution of the agreement has not been provided in time, AviationAudits.nl has the right to delay the execution of the agreement and/or to invoice the Principal for the additional extra costs that arise from the delay, according to the usual rates.
4. AviationAudits.nl is not liable for damage of any kind caused by the fact that AviationAudits.nl has commenced work from inaccurate and/or incomplete data provided by the Principal, unless this inaccuracy or insufficiency should have been known to AviationAudits.nl.
5. If it has been agreed that the Agreement will be executed in stages, AviationAudits.nl may delay the execution of those parts belonging to a subsequent stage until the Principal has approved the results of the previous stage in writing.
6. If in the scope of the Agreement, AviationAudits.nl or third parties hired by AviationAudits.nl will perform work at the Principal's location or a location appointed by the Principal, the Principal will ensure without additional costs for those facilities reasonably required by the employees.
7. The Principal indemnifies AviationAudits.nl against possible claims from third parties who are affected in relation with the execution of the Agreement and for which the Principal is accountable.
8. In the event that a contract was agreed upon in which activities during a longer period of time and monthly repeated payments are stated, in effect that when breach of contract takes place on account of the Principal, due to not paying or untimely payment of the invoiced amount for the setting up and execution costs, or due to breach of the provisions in the Agreement as mentioned and/or in these General Terms and Conditions, AviationAudits.nl may cease and suspend the agreed upon activities immediately; additionally, in effect that AviationAudits.nl will subsequently claim the invoice amount, plus the maximum amount payable in the scope of the Agreement, raised by administration and collections costs. The Principal will be liable for and bear all damages arising from this ceasing or suspending of the activities.
9. AviationAudits.nl does not charge a fixed call out charge. AviationAudits.nl does not charge the first two hours of travelling time per day. For all hours exceeding these two hours of travelling time per day, half of the hourly rate as agreed upon will be charged. If this means transport by air, the travelling time is established via the time table of the air company with which AviationAudits.nl travels. If AviationAudits.nl travels by car, the road planner from the ANWB [*Royal Dutch Touring Club*] will be used as guide to determine the travelling hours. For all other means of transport the actual travelling time will be charged.
10. If AviationAudits.nl uses its own cars, the agreed upon kilometre allowance will be charged as travel expenses.
11. Travel and accommodation expenses abroad. The Principal agrees to AviationAudits.nl charging the travel and accommodation expenses fully to the Principal.
12. The surcharge for activities outside geographical Europe is 50%. For activities outside the geographical area of Europe a surcharge of 50% to the agreed upon hourly rate is in effect.

Article 5 Amendment of Agreement

1. If during the execution of the Agreement it appears that it is necessary to amend or add to the activities to be performed, Parties will timely and in joint consultation adjust the Agreement accordingly.
2. If Parties consent that the Agreement needs to be amended or something needs to be added, this may influence the time of the completion of the performance. AviationAudits.nl will inform the Principal about this prior to amendment of the Agreement.
3. If the amendment of or addition to the Agreement has any financial and/or qualitative consequences, AviationAudits.nl will inform the Principal about this prior to amendment of the Agreement.
4. If a fixed fee has been agreed upon, AviationAudits.nl will make clear if and to what extent the amendment or addition of the Agreement will be above this fee.
5. Contrary to that stated above, AviationAudits.nl is not able to charge additional costs if the amendment or addition arises from circumstances chargeable to AviationAudits.nl.

Article 6 Duration of Agreement; term of execution

1. The Agreement between AviationAudits.nl and a Principal will be entered into for an undetermined term, unless the nature of the agreement determines otherwise, or Parties agree explicitly otherwise in writing.
2. If in the course of the Agreement a term is set for the completion of certain activities, this will never be a strict deadline. The Principal must therefore give AviationAudits.nl a written notice of default if the term of execution is exceeded.

Article 7 Remuneration

1. For quotes and agreements in which a fixed fee is offered or agreed upon, sections 2, 5 and 6-11 will apply. If no fixed fee is agreed upon, sections 3-11 of this Article apply.
2. Parties may agree upon a fixed fee when the agreement is drawn up.
3. If no fixed fee is agreed upon, the fee will be determined based on effectively worked hours. The fee will be calculated according to AviationAudits.nl's usual hourly rates, which are in effect during the term during which the activities are performed, unless another hourly rate has been agreed upon.
4. All remuneration and possible cost estimates are excluding Dutch VAT.
5. When the term of an assignment exceeds a period of three months, the costs payable will be periodically invoiced.
6. If AviationAudits.nl and the Principal agree upon a fixed remuneration or hourly rate, AviationAudits.nl is nonetheless entitled to raise this fee or rate.
7. AviationAudits.nl is entitled to pass on price increases if AviationAudits.nl can prove that the rates concerning salaries have significantly increased between the moment of quotation and the moment of delivery.
8. Additionally AviationAudits.nl is entitled to raise the remuneration when, during the execution of the activities, it becomes clear that the originally agreed upon activities or the expected amount of work was insufficiently estimated when the Agreement was entered into; and such is not accountable to AviationAudits.nl that in all reasonability it can not be expected from AviationAudits.nl that the activities agreed upon can be performed by AviationAudits.nl for the fee that was originally agreed upon.
9. In the event of price increase, the Principal is entitled to terminate the Agreement if the fee or rate is increased within three months after entering into the Agreement. After expiry of this time limit, the Principal is entitled to terminate the Agreement if the increase amounts to more than 10%. The Principal is not entitled to terminate the Agreement if the increase of the fee or rate arises from an authority in accordance with the law.
10. AviationAudits.nl will notify the Principal of its intentions to raise the fee or rate in writing, in which it will state the conditions of the raise and the date on which the raise will become effective.
11. If the Principal does not wish to accept the raise of the fee or rate stated by AviationAudits.nl, the Principal is, within seven working days of the aforementioned notification, entitled to cancel the Agreement in writing, or to cancel the assignment as of the date mentioned in the notification of AviationAudits.nl, on which the price or rate adjustment would become effective.

Article 8 Payment

1. Payment will be made in the currency of the invoice and in a manner indicated by AviationAudits.nl within 30 days of invoice date. Claims against the amount of the invoices will not suspend the payment obligations.
2. If the Principal fails to pay within the term of 30 calendar days, he is by law in default. The Principal is then due to pay an interest of 1% per month, unless the statutory rent is higher, in which case the statutory interest rate applies. Interest over the amount due will be calculated as from the moment the Principal is in default until the moment the complete amount has been paid.
3. If the Principal fails to pay as in section 2, AviationAudits.nl reserves the right to charge administration costs in addition to the above mentioned interest.
4. In the case of winding-up, bankruptcy, attachment, or moratorium of the Principal all claims claimed by AviationAudits.nl from the Principal will be immediately due and payable.
5. AviationAudits.nl is entitled to use payments made by the Principal to first settle the costs, to settle the interest due and finally to settle the principal sum and the accrued interest. AviationAudits.nl can, without being in default, refuse a payment offer if the Principal appoints another sequence of allocation. AviationAudits.nl can refuse the full payment of the principal sum, if the interest due and payable and the accrued interest, as well as the costs are not paid at the same moment.
6. If payment takes place within 30 calendar days after the invoice date, AviationAudits.nl will not charge a surcharge.
7. If payment takes place after 30 calendar days, a surcharge (known as 'credit restriction') of 4% is due by the Principal, unless Parties have agreed otherwise in writing.
8. Amounts on the invoices of AviationAudits.nl will always state clearly the amount excluding Dutch VAT, the Dutch VAT amount and the amount including Dutch VAT.
9. For single assignments and/or separate assignments, the Principle will receive an invoice.

Article 9 Retention of title

1. All goods delivered by AviationAudits.nl, including possible designs, sketches, drawings, plans, films, software, physic or electronic files etc, will remain the property of AviationAudits.nl until the Principal has met all following obligations arising from the Agreement entered into with AviationAudits.nl.
2. The Principal has no authority to pledge or encumber any of the goods falling under the retention of title.
3. If Third parties attach any of the goods falling under retention of title, or want to create or assert a right to these goods, the Principal is obliged to inform AviationAudits.nl as quickly as reasonably can be expected.
4. The Principal is obliged to take out an insurance and maintain this insurance against fire, damage caused by explosion or water and theft for the goods delivered under retention of title; the Principal is obliged to submit the policy of this insurance for inspection.
5. The goods delivered by AviationAudits.nl which, according to section 1 of this Article fall under the retention of title, may only be resold in the normal course of business and may never be used as means of payment.
6. If AviationAudits.nl wants to exercise its right to retention of title as mentioned in this article, the Principal will immediately grant its

unconditional and irrevocable permission to AviationAudits.nl or Third Parties appointed by AviationAudits.nl to access all the premises where the properties of AviationAudits.nl are and to take back these properties.

Article 10 Warranties

1. AviationAudits.nl guarantees that the goods to be delivered will satisfy the usual standards and demands which are required and that the goods are free of any faults whatsoever.
2. The guarantee as mentioned above is valid for a period of 12 months after delivery.
3. If the goods to be delivered fail to meet these guarantees, AviationAudits.nl will attend to repair within a reasonable term.
4. The warranty as stated will not apply if the fault was caused by improper use or misuse, or if Principal or Third parties have made or have tried to make modifications to the goods without AviationAudits.nl's written consent.
5. For services rendered, AviationAudits.nl guarantees that the services to be delivered will be performed with the highest skill and will satisfy the usual standards and demands which can be required of these services.
6. If the services to be rendered do not satisfy the usual standards and demands according to the Principal, AviationAudits.nl will attend to a proper execution within a reasonable term.
7. The Principal will not hold AviationAudits.nl to sections 5 and 6 mentioned above if AviationAudits.nl deviates from the usual standards and demands following the Principal's instructions or instructions of Third parties working for the Principal, or if without written consent from AviationAudits.nl, Principal or Third parties have made amendments or have tried to make amendments in the reports about the services rendered by AviationAudits.nl.

Article 11 Collection costs

1. If the Buyer fails to meet or remains in default of his obligations, or fails to meet or remains in default of his obligations in time, all reasonable out-of-court costs made to obtain payment will be born by the Principal; in the event of a monetary claim, the Principal is at all times due to pay collections costs. The collection costs will be calculated in accordance with the collection rate as advised by the Netherlands Bar Association [*Nederlandse Orde van Advocaten*].
2. If AviationAudits.nl has made higher costs, which were within reason necessary to obtain payment, these costs also qualify for reimbursement.
3. Possible reasonable judicial and execution costs that are made will also be born by the Principal.

Article 12 Investigation, Claims

1. The Principal must submit his complaints in writing about the activities performed within 8 days after discovery thereof, but at latest within 14 calendar days after completion of the activities concerned to AviationAudits.nl. The notice of default must contain a description of the shortcoming as detailed as possible, so that AviationAudits.nl is able to react appropriately.
2. If a complaint is well founded, AviationAudits.nl will execute the activities as agreed upon, unless this is, by then, demonstrably useless to the Principal, which needs to be expressed by the Principal in writing.
3. If executing the activities agreed upon on a later date is no longer possible or useful, AviationAudits.nl will only be liable within the restrictions of article 15.

Article 13 Termination

1. Both Parties may terminate the Agreement at all times in writing.
2. If the Agreement is terminated early by the Principal, AviationAudits.nl is entitled to compensation because of ensuing loss of staff placement, to be made sufficiently creditable, unless the facts and circumstances that are the basis of the termination can be attributed to AviationAudits.nl. Furthermore, the Principal will be obligated to pay for the activities which are actually performed until that moment. The preliminary results of the activities performed until then will not be made available to the Principal.
3. If the Agreement is terminated early by AviationAudits.nl, AviationAudits.nl will, in consultation with the Principal, ensure the transfer of the activities yet to be performed to Third parties, unless the facts and circumstances that are the basis of the termination can be attributed to the Principal.
4. If the transfer of activities results in extra costs for AviationAudits.nl, these will be invoiced to the Principal.

Article 14 Suspension and Cancellation

1. AviationAudits.nl is entitled to suspend its obligations to perform or to cancel the contract if:
 - the Principal does not meet the obligations arising from the contract or does not fully meet the obligations arising from the contract;
 - any circumstances have become known to AviationAudits.nl after entering into the Agreement that give sufficient grounds to suspect that the Principal will fail to meet his obligations. If there is sufficient evidence to suspect that the Principal will only meet his obligations in part or in an improper manner, the suspension is only allowed insofar the shortcoming justifies that;
 - the Principal has been asked at the time of entering into the Agreement to furnish security to fulfil his obligations arising from the contract and this security has not been provided or insufficiently provided.
2. Furthermore, AviationAudits.nl is entitled to terminate or have terminated the Agreement if circumstances arise which are of such nature that execution of the Agreement can not possibly be required or can no longer be required according to reasonable and fair criteria, or if circumstances otherwise arise which are of such nature that unaltered continuation of the Agreement cannot reasonably be required.
3. If the Agreement is terminated, all claims of AviationAudits.nl to the Principal can be claimed immediately. If AviationAudits.nl suspends the execution of the obligations, it will continue its claims arising from the law and Agreement. When the security has been provided, the authority to suspension which are of such nature that unaltered continuation of the agreement cannot reasonably be expected, will lapse.
4. AviationAudits.nl retains at all times the right to claim damages.

Article 15 Return of goods made available

1. If AviationAudits.nl has made goods available during the execution of the Agreement, the Principal is obliged to return these goods within 14 working days after completion of the assignment in the original state, free from faults and complete. If the Principal fails to satisfy this obligation, all costs arising from the failure to do so will be born by the Principal
2. If the Principal, for whatever reason, remains in default after receiving notice to satisfy the obligations mentioned above, AviationAudits.nl is entitled to claim all damage and costs arising from this, including costs for replacement, to the Principal.

Article 16 Liability

1. If AviationAudits.nl is possibly liable, this liability will be restricted to what is settled in this provision.
2. If AviationAudits.nl is liable for any direct damage, that liability will be limited to a maximum of the amount of payment made by AviationAudits.nl's insurer, that is to say to a maximum of twice the invoiced amount, that is to say to that part of the assignment to which the liability relates. This liability of AviationAudits.nl for direct damage will at all times be limited to the maximum amount of the remuneration.

3. In deviation of that set out in section 2 of this article, the liability will be further restricted to the remuneration due over the last six months if this concerns an assignment with a duration of more than six months.

4. Direct damage will exclusively mean:

- the reasonable costs to establish the cause and conditions of the damage, insofar this establishes relationship to damage in the sense of these conditions;

- the possible reasonable costs made to make AviationAudits.nl's default performance meet the Agreement, unless this can not be attributed to AviationAudits.nl;

- the reasonable costs made to prevent damage or limit damage, insofar the Principal demonstrates that these costs have led to limitation of direct damage as meant in these general conditions;

5. AviationAudits.nl is never liable for indirect damage, including consequential damage, lost profit, missed savings and damage caused by business interruption.

6. The limitations of liability set out in these conditions do not apply if the damage is due to intentional act or gross negligence of AviationAudits.nl or its subordinates.

Article 17 Indemnities

1. The Principal indemnifies AviationAudits.nl against claims from Third parties in relation with intellectual property rights on the materials or data provided by the Principal, which are used to execute the Agreement.

2. If the Principal provides AviationAudits.nl with information carriers, electronic files, software etc, the Principal guarantees that these carriers, electronic files or software are free of viruses and faults.

Article 18 Transfer of risk

1. The risk of loss or damaging of the goods that are subject of the Agreement is transferred to the Principal at the moment they are legally and/or actually delivered and are therefore under the control of the Principal or a Third party appointed by the Principal.

Article 19 Force majeure

1. Parties will not be obliged to perform any obligation if hindered as a consequence of circumstances not due to a fault of their own, nor for a cause that Parties are accountable for by law, by a legal/juristic act or according to generally accepted standards.

2. In these general terms and conditions Force majeure will include the meaning based on Dutch law and Dutch case law, all events beyond reasonable control, whether foreseeable or not, which AviationAudits.nl cannot influence, but which render AviationAudits.nl impossible to meet its obligations, including industrial actions within the AviationAudits.nl Company.

3. AviationAudits.nl is also entitled to invoke Force majeure if the circumstances hindering (further) performance, occur after the moment that AviationAudits.nl should have met its obligations.

4. Parties can suspend the obligations arising from this contract during the period of Force majeure. If the period of Force majeure exceeds two months, each of the parties is entitled to terminate the contract without the obligation of reimbursement of damages to the other party.

5. Insofar AviationAudits.nl at the time that the Force majeure occurs has met its obligations partially, or will be able to meet these obligations and an independent value can be attributed to the obligations yet met, or to be met respectively, AviationAudits.nl is entitled to invoice separately for that yet performed and/or to be performed. The Principal is bound to pay this invoice as if it is a separate agreement.

Article 20 Obligation of Confidentiality

1. Both parties are bound to an obligation of confidentiality regarding all confidential information they will receive in the scope of their Agreement with each other or any other source. Information is regarded confidential if this is so said by the Other party or if this results from the nature of the information.

2. If, based on a legal stipulation or decision from the Court, AviationAudits.nl is bound to provide legal information to third parties appointed by law or the competent Court, and if AviationAudits.nl cannot claim in this matter the right to refuse legally or by a competent, recognized Court, then AviationAudits.nl will not be bound to damages or compensation and the Other party will not be entitled to terminate the Agreement based on any damage arising from this.

Article 21 Intellectual property and Copyrights

1. Notwithstanding the other provisions of these general terms and conditions, AviationAudits.nl reserves the rights and authorities to which AviationAudits.nl is entitled based on the Copyright Act (1912).

2. All files or documents, including reports, advice, agreements, designs, sketches, drawings, software, digital designs etc..., provided by AviationAudits.nl, are intended to be used exclusively by the Principal, and may not without previous permission in writing from AviationAudits.nl be copied, made public or made known to third parties by the Principal, unless this arises from the nature of the provided files.

3. AviationAudits.nl reserves the right to use the knowledge acquired during the execution of the activities for other purposes, insofar as no confidential information is transferred to third parties.

Article 22 Examples and Models

1. If a model or example has been shown or provided to the Principal by means of an information carrier, this is assumed to be provided as a preliminary draft, unless it is explicitly agreed upon that the product to be delivered will be similar to this.

2. If an assignment relates to an immovable property, the notification of surface or other measures and indications are as well assumed to be preliminary surveys; the product to be delivered does not need to satisfy the indications.

Article 23 Take-over of staff

1. The Principal will refrain during the term of the Agreement as well as a year following the termination of the Agreement from employing, directly or indirectly, employees of AviationAudits.nl or from companies which have been hired by AviationAudits.nl to execute this Agreement and which are or have been involved with the execution of the Agreement, or employ staff working for the Principal in another manner, unless a proper business consultation regarding this matter has taken place with AviationAudits.nl.

Article 24 Disputes

1. The District Court, in the place of business of the company AviationAudits.nl will have the exclusive jurisdiction to hear all disputes, unless the Subdistrict Court is competent. Nevertheless, AviationAudits.nl has the right to submit the dispute to the Competent Court according to the law.

2. Parties will only submit a dispute to the competent Court after having tried to resolve the dispute in joint consultation.

Article 25 Applicable law

1. Dutch law applies to all Agreements entered into by AviationAudits.nl and the Principal. The Vienna Sales Convention (11 April 1980) is expressly excluded.