

GENERAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

Naldeo Group and Affiliates

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Historique des révisions

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Utilisation des CGV

Vous pouvez supprimer la page de garde et cette page pour transmettre les CGV au format compact sur 2 pages.

Conservez le titre, la référence à Naldeo Group et ses filiales et la référence à la version en tête du texte (en début de la page suivante).

Ces CGV sont applicables à la vente de services : Conseil, AMO, Etudes, Assistance à maîtrise d'œuvre ...

GENERAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

Naldeo Group and Affiliates¹

QSE-I-011_General_Terms_v3.00

1 APPLICABILITY

These General Terms and Conditions for Professional Services ("**Conditions**") shall apply to all professional services rendered by Naldeo Group and its affiliated entities^{Erreur ! Signet non défini.} ("**Consultant**") to a customer ("**Client**") unless otherwise agreed in a contract between the **Client** and **Consultant**.

2 DEFINITIONS

By "Services" is meant professional services in the nature of studies; preliminary engineering; engineering; project design; monitoring, owner's engineer services; management and supervision services; and other related services provided by the **Consultant** to the **Client**.

By "**Contract**" is meant, concerning the provision of the Services, (a) the agreement document duly signed by the parties, or if such document does not exist, (b) the **Consultant's** written offer accepted by the **Client** without changes, or (c) the **Client's** purchase order accepted by the **Consultant** without changes; each together with these **Conditions**, which form an integral part of the **Contract**. Any changes to the **Contract** shall be made in writing and signed by both parties.

3 SCOPE OF SERVICES

The parties agree on the scope of Services in sufficient detail in the **Contract** and its attachments.

4 COMPENSATION TO CONSULTANT

In consideration of the performance of the Services, the **Client** shall compensate the **Consultant** in accordance with the payment terms of the **Contract**. If not otherwise agreed in the **Contract**, the **Consultant** charges a fee based on the time consumed for the Services plus direct expenses. The fee is calculated in accordance with the current fee rates of the **Consultant** applicable to the type of services provided and is payable monthly net against invoice within 30 days from the date of the invoice in the currency prescribed. The interest on overdue payments is the reference rate of interest confirmed by the European Central Bank plus ten (10) percentage points. If any part of the invoice is disputed by the **Client**, the **Client** shall give the **Consultant** prompt notice with reasons and shall pay the undisputed part of the invoice without delay.

4.1 TAXES, WITHHOLDINGS, DUTIES ...

All prices and payments to the **Consultant** are exclusive of any taxes, withholdings, duties, bank charges and similar dues. Value added tax (VAT), sales tax and other equivalent tax, if applicable, is not included in the prices and will be marked separately in the invoice and paid by the **Client**.

4.2 LATE PAYMENTS

In accordance with article L441-10 of the French Commercial Code, unless otherwise specified in the contract, in the event of late payment, the sums due will bear interest, from the day after the due date, at the ECB's refinancing rate (Refi) increased by 10 points of percentage. The ECB's rate value will be the one of the first day of the semester during which interest begins to run.

Contractual provisions providing for a rate lower than 3 times the French legal interest rate are deemed unwritten and will lead to the application of the rate defined above.

The lump sum recovery indemnity in the event of delay is set at: €40.

5 CLIENT'S GENERAL OBLIGATIONS

The **Client** shall promptly provide the **Consultant** with all basic data and other data and information, and all reviews and approvals required by the **Consultant** in order to complete the Services in accordance with the **Contract**.

6 DELIVERY TIME

The **Consultant** shall perform the Services within the time schedule defined in the **Contract** except if the performance is delayed by reasons not attributable to the **Consultant**.

7 PROFESSIONAL STANDARD

The **Consultant** shall perform the Services in accordance with the standards of skill, care and diligence generally practiced by members of the engineering and consulting profession currently operating in the same region under similar conditions. If, during the one (1) year period following completion or termination of the **Consultant's** Services, whichever is earlier, it is shown that the **Consultant** has failed to meet this standard, and the **Client** has promptly notified the **Consultant** in writing of such failure, the **Consultant** shall perform such corrective services within the original scope of Services as may be necessary to make its Services conform to such standard. This obligation shall be the **Consultant's** sole obligation and the **Client's** exclusive remedy in respect of the quality of the Services.

The **Consultant** makes no warranties (express or implied) and assumes no liability for cost estimations made by the **Consultant**; or for modification, operation, availability or performance of the **Client's** or other end-user's facilities.

8 CONSTRUCTION REVIEW

Construction review and monitoring services provided by the **Consultant** do not give rise to any warranty or guarantee whatsoever. Construction contractors retained by the **Client** shall be fully responsible for the quality of their own work and for adhering to the plans and specifications. The **Client** shall be solely responsible for the supervision and management of the work forces of the constructors, including the means, methods, techniques, sequences or safety procedures employed by them to complete the work.

9 DEFECTS IN SERVICES

The **Client** shall promptly report to the **Consultant** any alleged defects in the Services in order that the **Consultant** may take prompt measures to remedy the same.

10 DELAYS IN SERVICES

If the parties have agreed in the **Contract** on certain completion milestones or on a final completion date for the Services, and the **Consultant** is in delay of such date(s) for reasons solely attributable to the **Consultant**, the **Client** is entitled to liquidated damages for delay. The amount of the liquidated damages for delay is 0.5 % of the fee for the particular phase or partial assignment delayed per each full week of delay. The total aggregate amount of the liquidated damages for delay is limited to five percent (5 %) of the total fee for the Services rendered by the **Consultant** under the **Contract**. This obligation shall be the **Consultant's** sole obligation and the **Client's** exclusive remedy in respect of the delay of the Services.

11 CHANGES

Any agreed upon schedule, completion date, price and/or maximum cost shall be equitably adjusted to reflect (1) the addition to, modification of or deletion from Services; (2) the discovery of any subsurface or other conditions which differ from (a) those shown in or reasonably inferable from **Contract**, (b) those ordinarily encountered and generally recognised as inherent in work of the type contemplated herein; (3) change in the applicable law or in the interpretation thereof, which increases the cost of or time required for performing Services; (4) delay or suspension of, or interference with the Services by the **Client** or by any other entity; (5) a modification to or delay in providing design criteria, decisions or other information needed by the **Consultant**; or (6) any increase in the **Consultant's** costs or in the time required for completion of the Services due to a Force Majeure event as defined in section 23 hereof, or any other cause beyond the **Consultant's** reasonable control. If the **Client** requires changes to be made by the **Consultant** to the content of the Services; or the use of methods, materials and constructions objected to by the **Consultant** in writing, the **Consultant** shall have no liability for damages, losses or delays arising out of such causes.

12 COMPLETION

When the **Consultant** deems it has completed the Services, it shall so notify the **Client** in writing. Within ten (10) days thereafter, the **Client** shall advise the **Consultant** in writing of any defects in Services for which he considers the **Consultant** to be responsible under the **Contract**. As soon as any such defects are corrected, or as soon as the ten (10) day period for such notice has expired if the **Client** has not advised the **Consultant** of any such defects within the period, the **Client** shall accept the Services in writing or they shall be deemed accepted.

13 INDEPENDENT CONSULTANT

The **Consultant** shall, for all purposes, be deemed to be an independent **Consultant** and nothing in the **Contract** shall be construed to make the **Consultant** the agent, employee or servant of the **Client**. The **Consultant** shall have control over and be responsible for the means and methods for performing the Services.

14 ASSIGNMENT AND SUB-CONTRACTING

Neither party shall, without the prior written consent of the other, assign or subcontract any of its rights or obligations under the **Contract**, except that the **Consultant** may have parts of the Services performed by its affiliated entities^{Erreur ! Signet non défini.}. In the event any part of the Services is performed by the **Consultant's** affiliated entities^{Erreur ! Signet non défini.} or other sub-consultants of the **Consultant**, the **Consultant's** responsibility for the Services remains unchanged and the **Client** shall look solely to the **Consultant** as if all the Services were performed by the **Consultant** alone.

15 INTELLECTUAL PROPERTY RIGHTS

The intellectual property rights to all drawings, specifications, database and other material supplied by the **Consultant** to the **Client** pursuant to the **Contract** shall rest with the **Consultant**. The **Client** agrees to use the information contained therein solely for the agreed purpose and for no other purpose. The **Client** agrees not to disclose the same to others for purposes other than for which it is intended, without the prior written consent of the **Consultant**. The **Consultant** is not responsible for any unauthorised use of the same.

16 PUBLIC LIABILITY

Each party shall indemnify, defend and hold the other party harmless from all claims, liabilities and causes of action for bodily injury to and/or death of any person and/or

loss of, damage to and/or destruction of third-party property, if and to the extent caused by the negligent acts or omissions of the indemnifying party.

17 PROFESSIONAL LIABILITY

The **Consultant** shall exert its reasonable effort to achieve its missions.

Designs and calculation worked out by the **Consultant** are based on data and information given by the **Client** and the **Consultant** shall not be held liable of any mistakes ensuing such false, incomplete or erroneous data or information.

The **Consultant** shall be liable to the **Client** for typical and expectable direct damages ensuing from errors, omissions and professional negligence which can be attributed to the **Consultant** in performing the Services in accordance with the **Contract**.

18 LIMITATION OF LIABILITY

Notwithstanding anything contained in the **Contract**, the **Consultant's** total aggregate liability under or in relation to the **Contract** (including any breach thereof) or the Services shall in no case exceed the lower amount of (a) the total fee (exclusive of direct expenses) paid to the **Consultant** for the Services or (b) the upper limit of 50 000 euros. The **Consultant** shall have no liability for any minor individual damage of less than 5 000 euros.

In no event shall the **Consultant** have any liability under or in relation to the **Contract** (including any breach thereof) or Services for any indirect or consequential damages of any nature whatsoever such as but not limited to damages arising out of or pertaining to loss of use of property, loss of profits or other revenue, interest, loss of product, increased expenses or business interruption, however the same may be caused. Furthermore, the **Consultant** has no liability for damages which are caused by reasons or circumstances not attributable to the **Consultant** or which are beyond the reasonable control of the **Consultant**.

19 LIABILITY PERIOD

The liability of the **Consultant** under or in relation to the **Contract** or Services shall in all cases expire after twelve (12) months has elapsed from the date of acceptance of the Services or the date when the Services are deemed accepted as set out in section 12 (Completion) hereof. All claims to the **Consultant** shall be presented immediately upon detection, however before the expiry of the liability period.

20 INSURANCES

To cover its professional liability with respect to the Services performed under the **Contract**, the **Consultant** shall maintain professional indemnity insurance for engineering undertakings. The **Consultant's** liability for damages caused by errors, omissions or other professional negligence is limited to the maximum liability defined in section 18 hereof however only to the extent and amount the liability is covered by the professional liability insurance. To cover its public liability, the **Consultant** shall maintain general liability insurance covering bodily injury and third-party property damage.

21 REMEDIES

All of the parties' rights, liabilities, responsibilities and remedies arising out of and relating to the **Contract** (including any breach thereof) shall be exclusively those expressly set forth in the **Contract** or provided by the applicable mandatory law.

22 SUSPENSION AND TERMINATION

The **Client** may suspend or terminate the **Contract** at its convenience upon thirty (30) days' prior written notice to the **Consultant**. The **Consultant** may suspend or terminate the **Contract** if payments are thirty (30) days or more overdue, or the **Client** or other project participants have delayed or neglected to fulfill their obligations thus preventing the proper execution of the Services by the **Consultant** and such default has not been corrected within thirty (30) days of the written notice to the **Client**, or the **Client** has requested to deviate from applicable laws and regulations, professional standards as described in section 7 hereof or the working ethics of the **Consultant**. In addition, either party may terminate the **Contract** upon written notice to the other in the event the other party becomes insolvent or bankrupt, or is the debtor in any receivership or bankruptcy proceeding or effects a general assignment for the benefit of its creditors, or in the event the other party commits a substantial breach of the **Contract** and fails to correct or take reasonable steps to correct the breach within ten (10) days after receipt of written notice from the other party thereof. Upon any suspension or termination of the **Contract**, the **Client** shall pay the **Consultant** the costs incurred, and fees earned until the effective date of termination, and neither party shall have any further liability to the other.

¹ "Affiliates" or "affiliated entities" for the purpose of this Agreement means any entity controlling, controlled by, or under common control, with the **Consultant**.

Where "control" means (a) the ownership, direct or indirect, of the securities authorizing its exercise by grouping at least 50 % of the voting power of the entity; or (b) possession direct or

23 FORCE MAJEURE

No delay in or failure of performance by either party, other than payment of money, shall constitute default hereunder if and to the extent such delay or failure is caused by any occurrence beyond the reasonable control of the party otherwise required to perform and which by the exercise of reasonable diligence by said party could not have been prevented.

Such *Force Majeure* events are, but not limited to, the following: fire, earthquake, lightning and other Acts-of-God, as well as industrial disputes, acts of terrorism, strikes, sabotage, epidemics, war, riot, mobilization and similar frustrations. In such circumstances, the party affected by force majeure shall have a duty to inform the other party within a reasonable period, not exceeding seven business days, from the date that force majeure is claimed.

24 UNFORESEEABLE CIRCUMSTANCES

In case of unforeseeable change in circumstances that makes the execution of the **Consultant's** obligations, excessively onerous, the parties agree that the **Contract** shall be negotiated in good faith and modified in order to take into account the consequences of this change and/or its developments.

Such unforeseeable changes are, but not limited to, the following: changes in legislation, events impacting the mobility of the Consultant for the performance of its mission, variation in courses, exchange rates or, prices or availability of equipment or materials, impacting the mission of the Consultant, health events impacting the availability of the Consultant's experts.

The party affected by such an event, shall inform the other party by registered letter with acknowledgment of receipt. If no agreement is found within thirty (30) days of this notification, the affected party shall be authorized to terminate the contract after one month's notice sent by registered letter with acknowledgement of receipt.

25 CONFIDENTIALITY

During the term of the **Contract** and two (2) years thereafter, the **Consultant** shall not disclose, orally or in writing, to any third party without the **Client's** prior written consent any information regarding the **Client's** business, industrial plants or any aspects of the project. Notwithstanding the foregoing, the **Consultant** shall be entitled to describe the Services and/or the project by title and generally as to scope, type and size, and state the name of the **Client** in qualifications, promotional and experience materials after the information of the project can be made public. These materials shall not reveal details of the project that contain proprietary technology or trade secrets, but may include such information that is published or otherwise in the public domain.

26 VALIDITY

In the event that any part of **Contract** is held to be void or unenforceable, the parties agree to negotiate in good faith to reach an equitable provision which shall affect the intent of the parties as set forth in the **Contract**.

27 GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of France.

28 SETTLEMENT OF DISPUTES

In case of a dispute, and if the Parties cannot resolve such dispute through a mutually acceptable settlement, the dispute shall be submitted to the Commercial Court of Lyon (Tribunal de Commerce de Lyon) or if appropriate to the Administrative Court of Lyon (Tribunal Administratif de Lyon).

The commercial court of Lyon (Tribunal de Commerce de Lyon) or, if appropriate, the Administrative Court of Lyon (Tribunal Administratif de Lyon), shall have sole competence to know any disputes ensuing or in connection with the present Agreement including in case of plurality of defendants, appeal in guarantee or emergency and interim proceedings.

29 NOTIFICATIONS

Notifications made under the **Contract** are valid and acceptable as soon as they are made in written send by certified mail or e-mail with acknowledgement.

indirect, of the capacity to direct the management and strategies of the entity whether through ownership of securities, or by contract or by any other means.