

GENERAL TERMS AND CONDITIONS of the Association of Assessors for Coastal, Rhine and Inland Shipping (Vereniging van Experts voor Kust-, Rijn- en Binnenvaart).

1. General

1. These Terms and Conditions apply to the realization and execution of all instructions to assessors and offers from assessors, as well as to all that which may occur as a result of or in connection with such instructions.
2. In these Terms and Conditions, "assessor" shall be taken to include any valuer and any constructor.
3. In these Terms and Conditions, "client" shall be taken to include all clients who jointly give one instruction, as well as his or their authorized representatives.

2. Instructions

1. An assessment instruction may cover :
 - Assessing the damage to the object or in respect of the incident indicated by the client, as well as determining the amount of the loss or losses with the other party or its authorized representative;
 - Determining the cause or causes of the damage, in so far as they can be traced.
2. The authorization of the client to the assessor to determine the amount of the loss or losses with the other party shall be included in the assessment instruction given, in so far as the instruction is intended for it.

3. Other instructions

Except for assessment instructions as referred to in Clause 2, other or additional instructions may be given to the assessor, such as instructions to perform valuations, pre-valuations, preliminary building surveys, technical inspections, further technical surveys or instructions to exercise recourse, give advice, perform supervision and control activities, e.g. for the issue of the necessary vessel certificates, to perform arbitration activities, make drawings, strength calculations and other shipbuilding and/or mechanical calculations.

4. Confirmation of the instruction

3. Acceptance and additions and/or changes to the instruction are confirmed in writing by the assessor to the client. The confirmation shall include a clear description of the purpose for which the instruction is given and the relevant object and/or case of damage shall be indicated meticulously.
4. The confirmation shall stress that these General Terms and Conditions apply to all instructions and additions and/or changes to them, unless explicitly provided otherwise.

5. Obligations of the assessor

1. The assessor will carry out the instruction accepted by him to the best of his ability and knowledge, meticulously and without prejudice, as may be expected from him as an impartial assessor and counsellor.
2. As far as possible, the assessor shall be obliged to observe secrecy in respect of third parties with regard to what was communicated to him or came to his knowledge in the acceptance and performance of the instruction, as well as with regard to his report to the client.
3. The assessor guarantees that (his) employees whose services he uses in the performance of the instruction, shall abide by the same rules.

6. Appointed experts

If and in so far as the assessor deems such necessary for a proper performance of the instruction, he will arrange to be assisted by one or more experts on behalf of the client within the scope of the agreement between the client and the assessor, such after obtaining the client's permission. The cost of such experts shall be passed on to the client.

7. Obligations of the client

1. On giving the instruction, or as soon as possible afterwards, the client shall provide the assessor with all details and information necessary for a proper fulfilment of his task, in writing if need be. The client guarantees that the details provided are correct and complete. Any damage suffered by the assessor as a consequence of incorrect or insufficient details, shall be payable by the client.
2. The client shall undertake to ensure that the work necessary for the performance of the instruction can be carried out in a correct manner.

8. Early termination of the instruction

1. On the basis of reasons that are urgent as far as the assessor is concerned, the latter may terminate further performance of the already accepted instruction, such after obtaining the client's consent and by submission of a written report to the client regarding the work performed so far.
2. The consent referred to in Clause 8.1 shall not be required in the case where the client has not complied with his obligations as described in Clause 7.

3. The client will compensate the assessor for the costs incurred for the work performed.

9. Reporting

1. At the end of the performance of the instruction, the assessor provides the client with a written report of his findings in connection with the purpose for which the instruction was given.
2. Each time the assessor considers such necessary or the parties have agreed thus, the assessor shall submit an interim report to the client.

10. Final report and obligation to retain

1. The work of the assessor shall terminate (with the exception of cases of early termination as referred to in Clause 8) when the final report with regard to the instruction accepted by him is submitted.
2. The assessor shall retain all details, correspondence, documents, photos and similar documents related to the acceptance and performance of the instruction for a period of five years after submission of the report. Other material goods retained by the assessor that are related to the subject of the instruction do not have to be retained by the assessor any longer than twelve months after submission of the report.

11. Invoicing and payment

1. Except for interim invoices for costs incurred in the performance of the instruction, the assessor shall forward the invoice for his work and the costs incurred to the client with the submission of his report, or no later than four weeks after, which invoice shall in principle be paid within four weeks thereafter.
2. In the case where the client fails to pay, the client shall owe any extrajudicial collection costs and any legal costs (including court costs and the cost of legal assistance), as well as all other costs incurred to collect the debt.

12. Liability

1. The assessor shall be liable in respect of the client for loss as a consequence of errors committed by him, such as inaccuracies, mistakes or omissions, which should not occur if the instruction is performed meticulously under the circumstances of the relevant case.
2. The assessor may also be held liable for the consequences of errors and/or delays, caused by incorrect functioning of electronic equipment used by the assessor in the performance of the instruction, unless he can prove that he has not been at fault with regard to caring for the proper functioning of the equipment.
3. The assessor shall not be liable for:
 - loss caused by the use of the report for a purpose other than the purpose agreed upon;
 - loss caused by non-compliance on the part of the client with his obligations as described in Clause 7;
 - loss as a consequence of the non-performance of work which he reasonably did not have to perform within the scope of the instruction;
 - consequential loss;
 - claims made by third parties, both with regard to the performance of the instruction and with regard to the report submitted by the assessor or the loss adjustment agency.

13. Maximum and duration of liability

1. The liability of the assessor as described in Clause 12 shall be limited to 50 times the amount of the fee to be charged or charged to the client by the loss adjustment agency plus expenses, excluding travelling expenses and certificate charges, if no invoice has been sent, a reasonable fee will be established in case of loss, excluding travelling expenses and certificate charges, but will never exceed EUR 250,000.00, nor will it where there is more than one instruction.
2. Each claim in this respect shall lapse two years from the date of submission of the report to the client, on the understanding that claims based on the provisions of Clause 10.2 shall lapse on expiry of the term mentioned therein.

14. Disputes/applicable law

1. With regard to all disputes between the client and the assessor, the Court of Rotterdam has exclusive jurisdiction.
2. The legal relationship between company and insured shall be governed by Dutch law.

These General Terms and Conditions were filed with the Registry of the Court of Rotterdam on 30 December 2008, under number 90/2008 and have been drawn up in Dutch, English and German. The Dutch text is decisive.