

## Standard terms & conditions

### 1. Definitions

"Surveyor"/"consultant" is the Surveyor/Consultant trading under these conditions.

"Client" is the party at whose request or on whose behalf the Surveyor/Consultant undertakes surveying services.

"Report" means any report or statement supplied by the Surveyor/consultant in connection with instructions received from the client.

"Disbursements" means the cost of all reasonable photography, reproduction of drawings, diagrams, sketches and printing, duplicating and where applicable, electronic transmission fees, and all reasonable and appropriate expenses including travel subsistence and hotel accommodation where an overnight stay is necessary.

"Fees" means the fees charged by the Surveyor/consultant to the client and including any value added tax where applicable and any disbursements.

### 2. Area of application

These terms supersede and override any and all contractual terms and conditions of the other contracting party howsoever and whenever communicated. These standard terms and conditions shall be applicable to all contractual relationships between ASA FRANCE sarl and the client. Any conflicting or deviating terms of the client shall not be accepted unless ASA FRANCE sarl expressly confirms their validity in writing. We reserve the right to modify these terms and conditions at any time. You should check these terms and conditions periodically for changes. By issuing the assignment you agree to accept these terms and conditions including changes, whether or not you have reviewed them. Your non reaction in writing constitutes consent to and acceptance of the following terms and conditions. These Standard terms and conditions shall be valid including for subsequent instructions/assignments and on-going business relationships.

The Standard terms and conditions are available for review in the offices of ASA FRANCE sarl and on its internet page [www.asafrance.com](http://www.asafrance.com).

### 3. Scope

The Surveyor/consultant shall provide its services solely in accordance with these terms and conditions.

### 4. Report

The report has been prepared specifically for the client, and is for their use only.

Copies in whole or in part should not be released to, or consulted by, other parties without the express prior permission of ASA FRANCE sarl.

Whilst all due care and diligence has been exercised in the collection of data for, and the preparation of, this report, ASA FRANCE sarl purports to provide an advisory service only, based on the opinion and experience of the Surveyor/consultant responsible for its compilation. ASA FRANCE sarl issues such advice in good faith and without prejudice or guarantee. Anyone wishing to rely on such opinion should first satisfy themselves as to its accuracy and feasibility. Please note that copyright remains with ASA FRANCE sarl. No part of the report may be disseminated until such time as the related invoice is paid in full. ©

### 5. Payment

The Surveyor/consultant is entitled to compensation which conforms to the valid scale of fees of the Surveyor/consultant unless fixed compensation had been agreed upon in writing. The scale of fees can fluctuate or change. Alternatively compensation shall be paid in accordance with rates customarily charged by freelance marine and cargo surveyors. The Surveyor/consultant shall be entitled to demand advance payment and/or issue partial invoices for services rendered. If the client is in default of payment of a partial invoice in spite of extension of time, the Surveyor/consultant may refuse to further carry out the assignment, may rescind the contract or demand damages.

Once the assignment has been carried out and the invoice submitted respectively, compensation shall be paid immediately or, in case a due date is specified in the invoice, by said due date, without deductions. The value added tax in effect at the time the instructions are confirmed shall be identified separately and is charged to the client in addition to the compensation.

Cheques and bank transfers are accepted on account of performances only and shall be considered payment upon redemption. Any normal expenses customary in banking are on account of the client.

### 6. Obligations and Responsibilities

(a) Client : The client undertakes to ensure that full instructions are given to the Surveyor/consultant and are provided in sufficient time to enable the required services to be performed effectively and efficiently and to procure all necessary access for the Surveyor/consultant to goods, premises, vessels, aircraft, installations and transport and to ensure that all appropriate safety measures are taken to provide safe and secure working conditions. The Surveyor/consultant shall not be liable for the consequences of late, incomplete, inadequate, inaccurate or ambiguous instructions.

(b) Surveyor: The Surveyor/consultant shall use reasonable care and skill in the performance of the services in accordance with sound marine/aviation surveying/consulting practice.

(c) Reporting: The Surveyor/consultant shall submit a final written report to the client following completion of the agreed services describing the Surveyor's/consultant's findings and the condition and/or quality of the object and/or purpose of the assignment, unless otherwise expressly instructed by the client not to do so.

(d) Confidentiality: The Surveyor/consultant undertakes not to disclose any information provided in confidence by the client to any third party and will not permit access to such information by any third party unless the client expressly grants permission save where required to do so by an order of a competent court of law. This excludes any illegal or fraudulent practices.

- (e) **Property:** The right of ownership in respect of all original work created by the Surveyor/consultant remains the property of the Surveyor/consultant.
- (f) **Conflict of Interest/Qualification:** The Surveyor/consultant shall promptly notify the client of any matter including conflict of interest or lack of suitable qualifications and experience, which would render it undesirable for the Surveyor/consultant to continue its involvement with the appointment. The client shall be responsible for payment of the Surveyor/consultant's fees up to the date of notification.
- (g) **Termination:** Both contractual parties may withdraw from the contract in writing for important reasons at any time. Proper notice of termination is possible only if this was previously agreed upon contractually. An important reason for the client is at hand particularly if the Surveyor/consultant continues to grossly neglect its duties as Surveyor/consultant in spite of a previous written warning. An important reason for the Surveyor/consultant is at hand particularly if the client refuses to provide the cooperation necessary to carry out the assignment, manipulates/influences the services and/or their results negatively or enters financial collapse or debtor's delay. The Surveyor/consultant reserves the right to resign the contract or refuse another order in case of non- or late payment (as stipulated according the conditions in point 5) of one or more invoices. When the resignation is sent by recorded delivery all responsibility of the Surveyor/consultant is due.

## 7. Liability

- (a) Without prejudice to clause 7, the Surveyor/consultant shall be under no liability whatsoever to the client for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect and howsoever arising UNLESS same is proved to have resulted solely from the negligence, gross negligence or wilful default of the Surveyor/consultant or any of its employees or agents or sub-contractors.
- (b) In the event that the client proves that the loss, damage, delay or expense suffered was caused by the negligence, gross negligence or wilful default of the Surveyor/consultant aforesaid, then, save where loss damage, delay or expense has resulted from the Surveyor's/consultant's liability for each incident or series of incidents giving rise to a claim or claims shall never exceed a sum calculated on the basis of ten times the Surveyor's/consultant's charges limited to an amount of 100 000€.
- (c) Without prejudice to (a) and (b) above, the Surveyor/consultant shall not be liable for loss of or damage to physical equipment and property placed at its disposal by, or on behalf, of the client however such loss or damage occurs, unless such loss or damage was caused by act or omission committed with intent to cause some or recklessly with knowledge that such loss or damage would probably result.

## 8. Indemnity

Except to the extent and solely for the amount therein set out that the Surveyor/consultant would be liable under clause 7, the client hereby undertakes to keep the Surveyor/consultant and its employees, agents and sub-contractors indemnified and to hold them harmless against all actions, proceedings, claims, demands or liabilities whatsoever or howsoever arising which may be brought against them or incurred or suffered by them, and against and in respect of all costs, loss, damages and expenses (including, but not limited to, legal costs and expenses on a full indemnity basis) which the Surveyor/consultant may suffer or incur (either directly or indirectly) in the course of the services under these conditions.

## 9. Force Majeure

The Surveyor/consultant and/or the client shall not, except as otherwise provided in these conditions, be responsible or have any liability for any loss, damage, delay or failure in performance hereunder arising or resulting from act of God (including, but not limited to earthquake, flood, tsunami, volcano, hurricane, tropical storm, cyclone, blizzard or others similar event), act of war, terrorist attack, nuclear contamination, seizure under legal process, epidemic quarantine restrictions, strikes, boycotts, lockouts, riots, civil commotions and arrest or restraint of princes, rulers or people. Following a force majeure event either party may serve notice on the other to terminate the agreement.

## 10. Insurance

The Surveyor/consultant shall effect and maintain, at no cost to the client, Professional liability insurance for such loss and damage for which the Surveyor/consultant may be held liable to the client under these terms and conditions.

## 11. Surveyor's/consultant's right to sub-contract

The Surveyor/consultant shall have the right to sub-contract any of these services provided under the conditions, subject to the client's right to object on reasonable grounds. In the event of such a sub-contract the Surveyor/consultant shall remain fully liable for the due performance of its obligations under these conditions.

## 12. Time Bar

Any claims against the Surveyor/consultant by the client shall be deemed to be waived and absolutely time barred upon the expiry of ninety days from the submission date of the report to the client.

## 13. Jurisdiction and Law

These conditions shall be governed by and construed in accordance with the laws of France and any dispute shall be subject to the exclusive jurisdiction of the French courts even in the case of complex litigation (plurality of defendants, action on a warranty or guarantee or in any other third party proceedings, counter-claims) and related actions. However a conciliation attempt is mandatory otherwise, all legal actions will be inadmissible.