

General Terms and Conditions of TERRECO

1. Scope

These General Terms and Conditions apply to all offers and agreements (hereinafter collectively referred to as 'the Agreement') between TERRECO and the CLIENT (as defined in Article 2 below), for the supply of goods and services to which TERRECO has indicated that these general terms and conditions apply, except insofar as they have been expressly excluded by the parties. TERRECO is not bound by the terms and conditions of the CLIENT.

2. Definitions

1. 'TERRECO': Terreco B.V. with their registered offices in Geleen, the Netherlands and Terreco BvBA with its registered office in Veldwezelt, Belgium.
2. 'The CLIENT': any party for which or where TERRECO performs or intends to perform work or delivers or intends to deliver goods and services (hereinafter referred to as 'the Services').
3. 'Work': all work to be performed by TERRECO, and all goods and services to be provided by TERRECO, together with support insofar as the need for this as specified in, or inferred from, the Order. The Work of TERRECO includes but is not limited to remediation of contaminated soil and / or groundwater.
4. 'Site/Location': means the buildings and / or areas of the CLIENT where the Work of TERRECO is to be performed as well as all other buildings and / or areas that are attributed to TERRECO by the CLIENT to perform the Work.
5. 'Order': an order or purchase order placed by either TERRECO or the CLIENT that is accepted by the other party, together with all specifications, plans and other documents included therein as schedules to the Order.

3. Agreement

1. An agreement is only binding once an Order is accepted in writing by TERRECO and the CLIENT. The Agreement, which includes these General Terms and Conditions of TERRECO ('the General Conditions') is not changed by the receipt, or confirmation of receipt, by TERRECO of any general or special terms and conditions of purchase of the CLIENT.
2. Any further supply of goods or services by TERRECO is governed by the same conditions as referred to in the Agreement itself, unless specifically agreed otherwise in writing by the parties prior to the further supply of goods or services by TERRECO to the CLIENT.
3. The CLIENT shall ensure that all information reasonably required by TERRECO for – at TERRECO's sole judgement – the proper performance of the Order in the desired form shall be provided to TERRECO. The supply of this documentation shall be in a manner to be determined by TERRECO. The Client shall also provide that all other cooperation necessary for the performance of the Order is available. TERRECO is entitled to suspend performance of the Order until such time as the CLIENT has complied with the aforesaid obligations. The CLIENT is liable to compensate TERRECO for any loss and cost due to any such delay.
4. If TERRECO supplies goods to the CLIENT, this supply shall always be subject to a retention of title.

4. Work performed by TERRECO

1. The performance of the Work by TERRECO shall consist of everything it deems necessary for it to perform the Work, including, but not limited to, the items listed in the Order.
2. The Work shall be carried out by TERRECO in accordance with the rules and regulations laid down by TERRECO and the CLIENT with regard to health and safety, and the environment, and shall be performed to the best of its endeavours in accordance with the terms of the Order.

5. Acceptance of the Work

1. TERRECO will notify the CLIENT in writing when it believes it will have completed the Work in accordance with the Order, whereupon the CLIENT shall notify TERRECO in writing either:
 - a. that the CLIENT accepts the written notice from TERRECO referred to in this section, or

- b. that the CLIENT does not accept the written notice from TERRECO referred to in this section, subject to providing written arguments that justify its complaints in this respect.
2. If and insofar as the Work has not been performed in accordance with the Order, then TERRECO shall where necessary, at its sole discretion, undertake remedial work and/or continue with the Work until it is completed in accordance with the terms of the Order.

6. Sub-contracting

TERRECO is entitled to use sub-contractors to perform any part of the Work. However, this does not relieve TERRECO from any responsibility or liability under the Order.

7. Guarantee

TERRECO guarantees that the Work shall comply with the terms of the Order. TERRECO shall use its best endeavours to apply all its knowledge and expertise to realise the goal and purpose intended by the CLIENT, insofar as TERRECO has knowledge of the same.

8. Change in the Work

TERRECO reserves its right for making technical changes in the implementation of the Work insofar as this is deemed relevant or necessary in the opinion of TERRECO to enhance the effect of the applied cleaning system technology, provided however that this is done under the condition that the general use of the Site/Location which is to be remediated, and where the Work is to be performed, does not change substantially. CLIENT can in consultation with TERRECO apply for a change of use of the Site/Location where the Work is to be performed, provided that all costs thereto will be borne by CLIENT.

9. Completion

The Work is deemed to be completed when the requirements set out in the Order have been met and the Work has been definitively accepted by the CLIENT.

10. Prices, taxes and duties

1. TERRECO should perform the Order for the price(s) specified therein. Unless specifically stated otherwise, the prices specified in the Order are fixed and definitive. Unless indicated otherwise, the prices are exclusive of tax, duties and other surcharges of a general or specific nature, which where relevant shall be charged separately to the CLIENT.
2. Should the price specified in the Order confirmation from TERRECO differ from the price in the offer or price list, then it is the price specified in the order confirmation that is binding.
3. If the parties agree for extra work to be performed, then such extra work shall be performed in accordance with the same agreed terms that applied to the original Work, unless expressly agreed otherwise in writing by the parties prior to the commencement of the relevant extra work.

11. Payment

1. Unless agreed otherwise, every invoice should be paid by the CLIENT to TERRECO promptly, without any set off, discount or deduction, in accordance with the agreed payment term.
If on the due date payment has not been made, the CLIENT is liable to pay interest on the sum owed commencing the period after the due date, being at an annual rate of 5% more than the current EURIBOR (3 month) rate, without prejudice to the other rights of rights of TERRECO. In addition, all sums owed by the CLIENT to TERRECO for whatever reason at all shall become immediately due and payable, without the need for service of any further notice of default. The 'due date' is the final date by which the sum owed should have been credited to the bank account of TERRECO.
2. If the CLIENT does not pay on time and in full, then the cost of all judicial and extrajudicial steps taken by TERRECO to enforce payment by the CLIENT shall also be fully recoverable from the CLIENT.
3. TERRECO is always entitled to require the CLIENT to give a sufficient guarantee for compliance with its payment obligations before TERRECO commences the Work or continues the Work, or makes supplies or continues to supply.



If and insofar as the CLIENT fails to provide the required, or any, guarantee, then TERRECO is entitled to suspend the Work or to terminate all or part of the Agreement with immediate effect and to recover goods already supplied, without prejudice to the rights of TERRECO to payment for costs incurred for the work it has already carried out and goods already supplied prior to the termination of the Agreement.

12. Rights over results and supply of knowledge

1. The CLIENT is not entitled to use any part of any knowledge or results concerning the Work, howsoever described, or to publish, disclose it or otherwise permit it to be seen by, or come to the knowledge of, any third party, without the prior written consent of TERRECO, except as provided in the following section of this article.
2. Unless agreed otherwise, the CLIENT shall acquire a non-transferable right to use the knowledge relating to the Work within the framework of the Agreement, with the proviso only that all industrial or intellectual property rights to the Work and the services supplied in the context thereof remain the exclusive property of TERRECO.

13. Protection of knowledge

1. TERRECO is entitled to apply for a patent on patentable results of any kind obtained by TERRECO through the performance of the Agreement, or to otherwise protect the same in any other way.
2. The designs, drawings, descriptions, plans, models, budgets, programmes, calculations etc. provided by or through TERRECO remain at all times the property of TERRECO and must be returned on first demand to TERRECO.

14. Publicity

Without the prior written consent of TERRECO, the CLIENT is not permitted:

- a. to reproduce or publish in any way any part of the report from TERRECO concerning the Work or the Agreement;
- b. to provide access to any report of TERRECO to persons outside the circle of those deemed to be involved in the working area of the Agreement;
- c. to use any part of the report from TERRECO for the making of any claim, the bringing of any court proceedings or for making - in the opinion of TERRECO - any negative publicity of any kind.

15. Confidentiality

1. The CLIENT should treat in confidence all information received from TERRECO and keep it confidential and not use it for any purpose unrelated to the work for which it was disclosed, except with the prior written consent of TERRECO or unless there is a separate written agreement to the contrary.
2. Insofar as the results of the Work relate to the company or business activities of the CLIENT, TERRECO should treat the results in confidence and not disclose them to any third party, except insofar as required by any law with which TERRECO is obliged to comply.

16. Breach by the CLIENT

If the CLIENT fails to comply on time and properly with any obligation, or if the CLIENT is served with an application for insolvency, is made insolvent or bankrupt or its business is wound up, or if it applies for a moratorium, then TERRECO is entitled to terminate all or any part of the Agreement or to suspend all or any part of the performance of the Agreement.

Termination or suspension by TERRECO in the above cases must be by registered letter, without the need to first serve any notice of default. TERRECO shall not thereby be liable for any loss resulting from such steps and retains all other rights. When any of the aforesaid circumstances arises, all claims by TERRECO against the CLIENT become immediately due and payable.



17. Complaints and liability

1. The performed Work is deemed to be accepted by the CLIENT and the CLIENT is deemed to have waived any right of claim following acceptance by virtue of Article 5.1, unless TERRECO is notified in writing of any complaint within six months of the date of the most recent invoice.
2. TERRECO shall take all reasonable care in the preparation for and performance of the Work in accordance with its professional competence and best judgement. TERRECO does not, however, guarantee that the Work will achieve or satisfy the desired or intended results specified in the Order.
3. The liability of TERRECO for the Work is limited to the specific undertakings written into the Agreement.
4. TERRECO is not liable for any indirect or consequential loss or third party loss of any kind flowing directly or indirectly from, or related to, the performed Work, whereby the CLIENT fully indemnifies and compensates TERRECO for any costs, damages, claims, losses, court proceedings and court costs except in the case of a deliberate act or gross negligence on the part of TERRECO.

18. Force majeure

TERRECO is not liable for any permanent or temporary breach of its obligations if such breach is the result of force majeure including, but not limited to, work stoppages, fire, sabotage, accidents, riots, war, natural disasters, sickness amongst employees in key positions and/or government regulations. In a situation of force majeure in which TERRECO is unable to comply with its obligations for a continuous period of three hundred and sixty-five days, then the CLIENT is entitled to terminate the Agreement in writing without notice. TERRECO, however, is entitled to require payment for Services performed prior to the date of the Force Majeure.

19. Safety

1. The CLIENT should inform TERRECO, its sub-contractors and their respective employees who perform the Work on the Site/Location of the CLIENT, about all safety regulations and should take all necessary safety measures to ensure the safe, continuous implementation on time of the Work by TERRECO.
2. If the safety regulations of TERRECO are more strict than those of the CLIENT, then the employees of TERRECO are entitled to adapt the safety regulations of TERRECO to the Site/Location of the CLIENT or, if this is not possible or is not accepted by the CLIENT, then TERRECO is entitled to terminate the Agreement with immediate effect and to immediately cancel the operations on the Site/Location without any right of the CLIENT to recover compensation for any loss thereby suffered.

20. Hazardous Substances / Tanks

To the extent that hazardous substances and tanks, such as but not limited to asbestos / hazardous chemical waste / radioactive waste, or other pre-known substances (including structures, tanks, cables and lines) are found on the Site/Location by TERRECO and have not been made known by CLIENT to TERRECO, prior to the start of the Work, which matters make the implementation of the Work not possible or will delay it, then CLIENT will be responsible for any additional cost of TERRECO for removal and / or remediation of these matter as well as any cost this will create in the establishment of the Work.

21. No right to employ personnel

The CLIENT may not recruit or employ directly or indirectly any personnel of TERRECO performing the Work on the Site/Location of the CLIENT for a period of two years following completion of the agreed services without the prior written consent of TERRECO.

22. Severability

These general terms and conditions are deemed to be severable, such that if any part of them is for any reason deemed to be invalid, the remaining terms and conditions shall remain fully in force.



23. Assignment

Neither party is entitled to assign the Agreement without the written consent of the other party. The only exception to this rule is that TERRECO may assign all or any part of the Agreement to any of its subsidiaries or associated companies.

24. Jurisdiction

This Agreement is governed solely by Dutch law. Any dispute arising from, or in connection with, the Agreement shall be finally determined by the competent court in Maastricht – without prejudice to the right of TERRECO to bring proceedings against the CLIENT before the court with jurisdiction in the area where the CLIENT has its registered office – or, if TERRECO so chooses, to bring the dispute before a tribunal of three members in accordance with the rules of the Netherlands Arbitration Institute, subject to excluding the option for accepting any binding recommendations as contained in the said rules.

These general conditions have been filed with the Chamber of Commerce for Limburg. TERRECO is entitled to make amendments to these general conditions. Such amendments shall come into effect at the time agreed. TERRECO shall send a copy of the amended general conditions to the other party. If no time is agreed for the amendments to come into effect, then the date on which they come into effect shall be the date on which they are communicated to the other party.

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