

General Term & Conditions: Personnel Certification

Article 1: Definitions

For the purposes of these General Terms and Conditions the parties are named as follows:

1. DNV GL: Business Assurance B.V.; BU Personnel Certification.
2. Client: Every natural or legal person who has an agreement with DNV GL Business Assurance - Personnel Certification, including but not limited to certificate holders, exam organizations, scheme owners.

Article 2: General

1. These Terms and Conditions supersede and invalidate all prior representations relating to the subject matter hereof. Client's terms and conditions included in any of Client's purchase orders, call-off orders or similar shall be null and void and disregarded. No other amendment and/or variation to the Terms shall be valid unless duly signed by/on behalf of both parties.
2. Client confirms that the purchase of the services as defined in the scope of work and the proposal (the "Services") is made in Client's capacity as a professional and for professional purposes.

Article 3: Due diligence, confidentiality and staff

1. Only upon successful completion of a certification process shall DNV GL issue the certificate of conformity, provided DNV GL finds that there is conformity with the relevant certification scheme. Subject to payment being made for the service, the recipient shall have the right to use the valid certificate as provided by DNV GL for the purposes for which such certificates are generally intended and used.
2. In case of incorrect reference to certification status or misleading use of certification documents or other breach of the applicable requirements for the maintenance and use of the certificates and the certification mark as submitted by DNV GL together with the certificate of conformity, DNV GL may decide corrective actions. The recipient of the certificate shall immediately implement such corrective actions. DNV GL may suspend or withdrawal the certificate if corrective actions are not taken or are not deemed sufficient in the sole opinion of DNV GL.
3. Each party agrees to keep any information confidential it receives from the other party in course of the Agreement which by denotation or reasonable circumstances is considered confidential to the disclosing party. The recipient party shall treat such received information with reasonable care and diligence, not disseminating or disclosing it to third parties without the other party's prior written consent, provided however that DNV GL may share such information with its officers, employees, subsidiaries, affiliates or subcontractors who are subject to confidentiality obligations reflecting the principles herein.
4. The obligations hereinabove shall not apply to and each party shall be free to disclose, any information which: (i) was known to the recipient prior to the information being disclosed by the other party, or becomes known to the recipient through a third party without any confidentiality obligation; (ii) is or becomes generally available in the public domain through no act or failure to act on the part of the recipient; and (iii) is required to be disclosed by any relevant accreditation body, any competent court, governmental agency, or other relevant public authority in accordance with applicable law, court order or other public regulation.
5. Notwithstanding the above, DNV GL shall have the right to (i) use for statistical and analytical purposes any information generated in the course of the Work, provided that such is kept internal or published only in aggregated anonymous forms; (ii) make reference to the Client in DNV GL's marketing; and (iii) extend the audit team with third parties as set out in this Agreement.
6. The obligations in this section shall survive the completion of the certification or termination of this Agreement and remain in effect for as long as the relevant information is confidential.
7. The Client will not solicit a DNV GL employee involved in the implementation of that agreement, without DNV GL approval for 12 months following the termination of this Agreement.

Article 4: Safety, Health and Environment

1. The Client is obliged to inform DNV GL, about potential or known hazards and / or risks to the health and safety of the persons who on behalf of DNV GL, perform work for the Client. The Client shall also inform DNV GL about possible or known hazards and / or risks to the environment in general, if and when these hazards and / or risks to the work DNV GL performs are or could be relevant.
2. If employees from DNV GL, in the context of carrying out the assignment given to DNV GL, visit the client's premises, the client ensures the greatest possible safety and the best possible protection for these workers in accordance with applicable law - and regulation. DNV GL and / or its personnel, including also its subcontractors, may refuse to carry out any activity, or visit any area or site, if DNV GL or its personnel in their sole discretion consider that relevant risks are unacceptable or not adequately addressed, contained or otherwise mitigated. Any such decision shall suspend both parties' obligations without any liability or penalty until the parties have agreed on how to proceed.

Article 5: Variations

1. Further orders on the part of the client for the provision of more and / or other services by DNV GL, other than those already agreed, can only lead to an agreement, if the order is confirmed in writing by DNV GL authorized persons.

Article 6 Intellectual property rights

1. Both parties agree that any intellectual property rights (whether registered or not) that already existed prior to coming into force of this Agreement, remain vested by the original owner, unless otherwise agreed.
2. DNV GL is considered to have full property rights, including copyrights, regarding certification schemes, certificates, exams, manuals, check-lists, protocols and all other deliverables developed by DNV GL or delivered in the context of this Agreement (the "Deliverables").
3. Client shall hold a time-limited, restricted right to use the Deliverables for the purposes for which they are commonly used. The client is not permitted to reproduce or publish the work or works without prior approval from DNV GL. On the other hand, works that have already been put into circulation by DNV GL, may be made public by the Client. In addition, DNV GL permits the client expressly to reproduce the work only for use within the organization of the client, for a period of 12 months after the effective date of this Agreement or in the case of certificates for such period as they remain valid.

Article 7: Obligations of the client

1. The Client is obliged to provide all information for its own account and to provide the cooperation necessary to properly implement the agreement by DNV GL. DNV GL's performance of the work requires DNV GL to be granted access and right to inspection of all relevant sites and facilities and provision of all relevant documents and information. To this purpose, Client shall in a timely manner make all necessary decisions and provide DNV GL with all reasonably necessary access to any sites and facilities and provide DNV GL with any and all relevant and correct and complete documentation and information required for the work. Unless it is explicitly agreed as part of the work that DNV GL shall identify discrepancies, errors, inconsistencies or omissions in the information provided by Client, the Client is responsible for all aspects of the information it provides and DNV GL is entitled to rely on the accuracy and completeness of such information in the performance of the work.
2. In case of non-compliance by the Client of Article 7 paragraph 1 the Client shall indemnify and hold harmless DNV GL Group from any liabilities, losses, damages, costs (including legal costs), claims and expenses incurred as a consequence of a failure of the Client to fulfil its obligations regarding the provision of accurate and timely information, material or data and access to sites, as well as a consequence of the use of the certificate of conformity in breach of the applicable requirements.
3. Client acknowledges and agrees that DNV GL under this Agreement may outsource the Services (or any part thereof) to subsidiaries or affiliates of DNV GL or other qualified third parties.

Article 8: Changes in the nature, scope and planning of work as a result of external circumstances

1. Changes may take place after the conclusion of the agreement in the relevant (international) ISO / NEN standards and / or legislation. DNV GL will charge the related extra costs arising from the change of the applicable requirements to the Client.
2. If DNV GL as a result of circumstances attributable to the Client has to change the schedule of activities, DNV GL is entitled to charge the associated costs as follows to the Client:
 - a. If the change is requested on a date prior to 21 calendar days of the commencement of work, DNV GL charges, in addition to the agreed fee and the agreed costs, the by her at the time of the application already incurred costs and also 50% of that fee to the Client.
 - b. If the change is requested on a date prior to 11 and 21 calendar days of the commencement of work, DNV GL charges, in addition to the agreed fee and the agreed costs, the by her at the time of the application already incurred costs and also 75% of that fee to the Client.
 - c. If the change is requested on a date within 10 calendar days of the commencement of work, DNV GL charges, in addition to the agreed fee and the agreed costs, the by her at the time of the application already incurred costs and also 100% of that fee to the Client.

Article 9: Remuneration

1. Each party is solely responsible for paying any and all taxes to any public authority wherever such taxes are levied on the activities of such party. For the purpose of this Agreement, any and all prices, fees, rates or remuneration are agreed as stated exclusive of any form of sales taxes, value added tax, and/or any other similar taxes which may be applicable.
2. Fees and expenses are independent of the nature of any advice given or opinion expressed and of any dispute outcome, and will not be adjustable. Invoices shall be addressed to the Client and Client shall effect payment as agreed to DNV GL for the Work, including any Variations, to DNV GL's bank account stated on the invoice within fifteen (15) days of the date of the invoice.
3. In case of late payments, DNV GL is entitled to charge a late payment penalty interests according to the applicable law of this Agreement, or 3% above the thirty (30) days LIBOR rate, whichever is the higher. Alternatively DNV GL may suspend work or withhold Deliverables at any time for late payment of any invoice until payment is received of all amounts due.
4. All payments shall be made in cleared funds, without any deduction or set-off and free and clear of and without deduction for or on account of any taxes, levies, imports, duties, charges, fees and withholdings of any nature now or hereafter imposed by any governmental, fiscal or other authority as required by law.

Article 10: Premature termination

1. Subject to the following paragraphs of this article and a notice period of at least 3 months, the parties are entitled to terminate the agreement reached between them by sending a registered letter by mail to the other party.
2. In case of the Agreement being terminated in accordance with Article 10(1) above, the Client will pay all outstanding fees and reasonable costs incurred by DNV GL.
3. The parties are entitled to terminate the agreement by dissolution with immediate effect in whole or in part or suspend their obligations, if:
 - a. The other party's bankruptcy is filed, either by that party itself, by a third party or if the bankruptcy is declared;
 - b. The other party applies for a moratorium or moratorium is granted to the other party;
 - c. The other party is dissolved and / or liquidated;
 - d. One of the parties has well-founded fear that the other party will not fulfill its obligations to that party;
 - e. One of the parties has committed fraud for obtaining the (personnel)certificate.

Article 11: Force Majeure

1. Delay in or failure of performance of either party hereto shall not constitute a default hereunder or give rise to any claim for damage if and to the extent such delay or failure is caused by any event beyond the control of the party affected, which the party had no reasonable way of preventing or grounds to anticipate, including but not limited to an act of war, natural disaster, fire, explosion, labour dispute or any international sanctions or restrictions on trade. The affected party shall immediately notify the other party in writing of the causes and expected duration of any such occurrence.

Article 12: Liability

1. DNV GL and its parent companies, subsidiaries and affiliates, as well as its and their respective employees, representatives, directors and subcontractors (collectively, "DNV GL group") shall not in any way be held liable for any of client's and/or any of its clients, subsidiaries, parent companies or affiliates, or its and their respective employees, representatives, directors and contractors' (collectively, "customer group") consequential or indirect loss arising from or in connection with this agreement, including but not limited to loss of profit, use or goodwill, howsoever such may arise, whether in contract, tort, strict liability or otherwise.
2. In case of non compliance by the client of article 3 paragraph 2 the client shall indemnify and hold harmless DNV GL group from any liabilities, losses, damages, costs (including legal costs), claims and expenses brought by third parties as a consequence of a failure of the client to fulfil its obligations.
3. Except in the case of wilful misconduct or other similar circumstance for which a party may not lawfully limit its liability under this agreement's applicable law, the maximum cumulative liability of DNV GL group arising from or in connection with this agreement, whether in contract or tort including negligence, shall be limited to the lesser of (i) a sum equal to five times the remuneration paid to DNV GL under this agreement, or (ii) euro 100,000 (onehundredthousand).
4. DNV GL makes no warranties in respect of the deliverables. To the extent permitted by applicable law, deliverables are provided "as is" without warranty of any kind, either express, implied or statutory, including, but not limited to, the warranties of merchantability or fitness for a particular purpose. Client shall indemnify and hold harmless DNV GL as, its affiliates, parent companies and subcontractors (hereinafter DNV GL group) from and against any claims from third parties arising from or in connection with access to or use of deliverables.

Article 13: Disputes and applicable law

1. This Agreement shall be governed and construed in accordance with the laws of the Netherlands.
2. Any dispute arising in relation to or as a consequence of this Agreement, which cannot be settled amicably through negotiations between the parties, shall be subject to the courts of the Netherlands.
3. In circumstances where Local law requires that this Agreement be provided in the local language this English language version shall take precedence in the event of any ambiguity.

DNV GL Business Assurance B.V.

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