



GENERAL TERMS & CONDITIONS OF SERVICE WITH END-CLIENT

1. APPLICATION OF GENERAL CONDITIONS; DEFINITIONS

1.1 The definitions in this Article apply in these General Conditions:

“**Agreement**”: means these General terms and conditions of service accepted by the end-client, CW and BIVAC.

“**Electronic Platform**”: means the Checkingwheels.com web platform enabling End-Client to order, pay visual verification inspection of used transportation vehicle and mobile equipment performed by BIVAC and obtain related report and photos.

“**End-Client**”: means the client ordering Services to BIVAC via the Electronic Platform.

“**Party**” and “**Parties**”: mean individually the End-Client, CW or BIVAC and collectively End-Client, CW and BIVAC.

“**BIVAC**” or “**Provider**”: means Bureau Veritas Inspection Valuation Assessment and Control – BIVAC BV.

“**CW**”: means Checking Wheels B.V.

“**Reports**” or “**VVR**”: mean Visual Verification Report of used transportation vehicle and mobile equipment and associated documents, including without limitation, photos of the said used transportation vehicle and mobile equipment and associated documents delivered by the seller of such vehicle and equipment in relation to the performance of the Services.

“**Services**”: means the services consisting in the provision by BIVAC of visual verification services in the Netherlands, Belgium and Luxembourg to the End-Client via the Electronic Platform on the basis of the order given from the End-Client and agreed by BIVAC.

“**Seller**” means the End-Client contact presenting the vehicle and its document to BIVAC inspector.

“**Order**”: means the document whereby the End-Client has formally accepted these General Terms & Conditions of Service with End-Client and has fully paid on-line the Service via the Electronic Platform.

2. THE PARTIES' OBLIGATIONS

2.1 BIVAC agrees to implement all the means at its disposal to perform the Services, as agreed by the Parties, with independence, impartiality and objectivity. Such information is communicated to the End-Client in the form of the Reports.

2.2 The End-Client shall:

2.2.1 co-operate with BIVAC in all matters relating to the Services and insure, prior to ordering that the Seller is duly informed and agrees for the performance of the Services, on the basis of BIVAC' requirements and scope of Services;

2.2.2 provide BIVAC via the Electronic Platform, information relating to the location of used transportation vehicle and mobile equipment subject to the Services and other information as BIVAC may require for the proper performance of the Services;

2.2.3 ensure that the information provided to BIVAC is accurate in all material respects;

2.2.4 provide BIVAC with all information and particulars concerning the use or purpose of the items in relation to which the Services shall be provided;

2.2.5 order and supply via the Electronic Platform all required data to enable an efficient and fast visual verification of used transportation vehicle mobile equipment and associated documents;

2.2.6 ensure that the Seller will cooperate with BIVAC for the performance of the Services and be available for the performance of the visual verification services.

2.3 More generally, the Parties undertake to cooperate loyally and in good faith for the duration of the Services.

3. DURATION

3.1 The Agreement shall become effective on the date of Order and for the duration of the Services as specified in CW Terms & Conditions.

4. FINANCIAL CONDITIONS

4.1 Once the Order is received, CW is entitled to invoice the full amount on behalf of BIVAC.

4.2 Should the Seller selected by the End-Client being not able to be reached to agree an inspection date, CW and BIVAC may propose a credit note of a portion of the paid amount to the End-Client.

5. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

“**Intellectual Property**” means all patents, rights to inventions, utility models, copyright and related rights, trade marks, logos, service marks, trade dress, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets), methods and protocols for Services, and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals, reversions or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Each Party exclusively owns all rights to its Intellectual Property whether created before or after the commencement date of the Agreement and whether or not associated with any Agreement between the parties.

Neither Party shall contest the validity of the other Party's Intellectual Property rights nor take any action that might impair the value or goodwill associated with the Intellectual Property of the other Party or its affiliates.

Each Party shall take all necessary steps to ensure that it operates at all times in accordance with all applicable data protection laws and regulations.

The names, service marks, trademarks and copyrights of the Provider and its affiliates shall not be used by the End-Client except solely to the extent that the End-Client obtains the prior written approval of the Provider and then only in the manner prescribed by the Provider.

For avoidance of doubt, nothing in the Reports or any other writing shall convey any rights of ownership or license whatsoever to the Provider's Intellectual Property of its proprietary software, nor to the Provider's proprietary audit methods, training materials and best practices manual, nor to the Provider's protocols, nor to the Provider's name, logo, marks, or other trade dress nor any other existing or later developed Intellectual Property rights or know-how developed and used to perform the Services and Reports. These shall remain the sole property of the Provider. Further, the Reports do not convey ownership or licensing rights to any third party's Intellectual property that may be contained or referenced in the Reports.

The VVR design and content inclusive of photos are the property of BIVAC.

6. CONFIDENTIALITY AND PROVIDER'S PROPERTY

“**Confidential Information**” shall mean any information disclosed in whatever form, by a Party to the other Party including, but not necessarily limited to, technical, environmental, commercial, legal and financial information relating directly or indirectly to the Parties and/or to the Agreement.

Each of the Parties shall not disclose or use for any purpose whatsoever any of the confidential knowledge or Confidential Information or any financial or trading information which it may acquire or receive within the scope of the performance of the Agreement, without the prior written consent of the Party that disclosed the Confidential Information.

The confidentiality undertaking shall not apply to any information:

6.1.1 which is publicly available or becomes publicly available through no act of the receiving Party;

6.1.2 which was in the possession of the receiving Party prior to its disclosure;

6.1.3 which is disclosed to the receiving Party by a third party who did not acquire the information under an obligation of confidentiality;

6.1.4 which is independently developed or acquired by the receiving Party without use of or reference to Confidential Information received from the disclosing Party;

6.1.5 which is disclosed in accordance with the requirements of law, any stock exchange regulation or any binding judgment, order or requirement of any court or other competent authority; or

6.1.6 which is disclosed to an affiliate of the Party on a need to know basis.

6.2 The Reports are issued by the Provider and are intended for the exclusive use of the End-Client and shall not be published, used for advertising purposes, copied or replicated for distribution to any other person or entity or otherwise publicly disclosed without the prior written consent of the Provider.

6.3 Each Party shall be responsible for ensuring that all persons to whom Confidential Information is disclosed under the Agreement shall keep such information confidential and shall not disclose or divulge the same to any unauthorized person or entity, and shall assume full responsibility for any breach of said undertaking.

INITIALS or electronic acceptance:

- 6.4 On expiry or termination of the Agreement for any reason and at the direction of the other Party, each Party shall return or destroy the other Party's Confidential Information which is at that time in its possession or under its control, provided, however, that nothing herein shall prohibit the Provider from maintaining copies of Reports and analysis in accordance with its record retention policies and document retention policies as may be required by law or accreditation bodies.
- 7. LIMITATION OF LIABILITY**
- 7.1 Notwithstanding any other provision of the Agreement, neither Party shall be liable to the other Party for indirect, incidental or consequential losses or damages (including, without limitation, punitive and exemplary damages, loss of earnings, loss of production, loss of value or decrease in earnings from any goods or property, including, without limitation, loss of use, loss of financial advantage, business interruption or downtime).
- 7.2 Without prejudice to Article 7.1, the total liability of BIVAC and its affiliates, and their respective employees, agents, consultants, and subcontractors, in contract, tort (including, but not limited to, negligence, gross negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in any manner in connection with or related to the Services, the Reports, and the performance, or contemplated performance, of the Agreement shall be limited to the greater of a sum equivalent to five (5) times the amount of fees paid or payable by the End-Client to BIVAC in respect of the Services that give rise to BIVAC's liability to the End-Client.
- 7.3 The End-Client shall indemnify BIVAC and its affiliates, and their respective employees, directors, agents, consultants or subcontractors against, and hold them harmless against, all claims made by third parties for loss, damage or expense of whatever nature (including, but not limited to negligence and gross negligence) and howsoever arising, relating to the performance, purported performance or non-performance of any Service, to the extent that the aggregate of such claims for any one Service exceeds the limitation of liability as set out in Article 0 above.
- 7.4 Without prejudice to Articles 7.1 and 7.2, BIVAC shall not be liable to the End-Client for and the End-Client shall be precluded from bringing any claim for losses, unless notice of such claim is received by BIVAC before twelve (12) months after the earlier of (i) the date of performance by BIVAC of the Services which give rise to the claim, or (ii) the date when the Services should have been completed in the event of any alleged non-performance.
- 8. FORCE MAJEURE**
- 8.1 For the purposes of this Article 8, "**Force Majeure**" shall mean an event, the occurrence of which is beyond the reasonable control of the claiming Party, including without limitation the following events and circumstances:
- 8.1.1 acts of war (whether declared or undeclared), armed conflict, civil unrest or insurrection, blockade, embargo, riot, sabotage, malicious damage, acts of terrorism or the specific threats of such acts or events, or conditions attributable to such acts or events;
- 8.1.2 strike, work slow down, lockout or other industrial disturbance or labour dispute (whether involving the workforce of the Party so prevented or of any other Party), or default of suppliers or of subcontractors;
- 8.1.3 epidemics or plague;
- 8.1.4 earthquake, cyclone, hurricane, flood, drought, lightning, storms, storm warnings, navigational and maritime perils, or other acts of God;
- 8.1.5 breakage, fire, freezing, explosion, mechanical breakdown or other damage or malfunction resulting in the partial or complete shutdown of the facilities of the claiming Party;
- 8.1.6 a change in law, hindrance of government or other act or failure to act by any government claiming jurisdiction over the Agreement or the Parties;
- and which renders either the End-Client or the Provider unable, wholly or in part to carry out its obligations under the Agreement (other than the obligation to make payments of sums due to the other Party), which inability could not have been prevented or overcome by the claiming Party exercising reasonable foresight, planning and implementation.
- 8.2 If as a result of Force Majeure any Party is rendered unable, wholly or in part, to carry out its obligations under the Agreement, other than the obligation to pay any amounts due, then the obligations of the Party giving notice of such event, so far as and to the extent that the obligations are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused and for such reasonable period thereafter as may be necessary for the Party to put itself in the same position that it occupied prior to the Force Majeure, but for no longer period.
- 8.3 In the event of BIVAC being prevented for any reason beyond its control, including events of Force Majeure, from performing or completing the Services, the End-Client agrees:
- 8.3.1 to reimburse BIVAC for any expenditures actually made or incurred; and
- 8.3.2 to pay the proportion of fees due for the Services which have been actually carried out and to release BIVAC from all responsibility for partial or total non-performance of the Services.
- 8.4 The Party claiming Force Majeure shall notify the other Party of the Force Majeure within forty eight (48) hours after the occurrence of the facts relied on and shall keep the other Party informed of all significant developments. Such notice shall give reasonably full particulars of the Force Majeure and also estimate the period of time which the Party will probably require to remedy the Force Majeure.
- 8.5 The affected Party shall use all reasonable diligence to remove or overcome the Force Majeure situation as quickly as possible in an economically reasonable manner, but shall not be obligated to settle any labour dispute except on terms acceptable to it, and all such disputes shall be handled within the sole discretion of the affected Party.
- 9. NON SOLLICITATION**
- 9.1 Each Party agrees not to hire, solicit, or accept solicitation (either directly or indirectly) from, the employees of the other Party directly involved in the Agreement, during the term hereof and for one (1) year thereafter, except as the Parties may agree on a case-by-case basis. The foregoing does not affect the rights of either Party's employees to apply for a position within the other Party's organization. This obligation shall be valid for the duration of the Agreement and for twelve (12) months after its termination for any reason whatsoever.
- 9.2 If either Party does not comply with the obligation under Article 9.1, it shall indemnify the other Party (including expenses of recruitment and selection, training costs, damages resulting from his personal reputation or commitments already taken into account) by paying an immediate lump sum equal to the gross salary that the employee in question would have received for a total of twelve (12) months preceding his departure.
- 10. MISCELLANEOUS**
- 10.1 Assignment of the Agreement - The Agreement is due to the person of the End-Client. It may not be assigned, transferred, in full or partially, by either Party without the express prior consent of the other Party.
- 10.2 Comprehensiveness - The Agreement contains all the obligations of the Parties relating to its subject. It supersedes all previous document and agreement between the Parties and may only be changed by amendment signed by the Parties.
- 10.3 Severability - If any provision of this Agreement is held to be invalid or regarded as such under any law, regulation or a final decision of a competent court, they will be deemed unwritten and the remaining provisions will remain in effect.
- 10.4 No Waiver - The failure of either Party not to claim a breach of the other Party to perform any of its obligations under the Agreement shall not be construed as a waiver.
- 10.5 Titles – For any trouble interpreting any of the securities and / or headings placed at the head of any provision of these with any of the said provisions, the securities and / or headings in question may be declared nonexistent.
- 10.6 Independence Party - The Agreement will not result and in no way be construed as creating an agency relationship, association, partnership, joint venture between the Parties.
- 11. SUBCONTRACTING**
- 11.1 BIVAC at its sole discretion may delegate the performance of all or a portion of the Services under the Agreement to an affiliate, agent or subcontractor of BIVAC without prior notice to the End-Client, and the End-Client hereby consents to such delegation.
- 12. GOVERNING LAW AND JURISDICTION**
- 12.1 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of the Netherlands, notwithstanding any conflicts of laws rules that could require the application of any other laws.
- 12.2 The Parties irrevocably agree that the courts of Rotterdam shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter.

INITIALS or electronic acceptance: