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#### **Article 1 : Applicability**

- 1.1 These General Terms and Conditions apply to all services to be provided by or on behalf of Stichting Aestimavi to assess the professional competence of persons, as well as certification by Stichting Aestimavi.
- 1.2 The person who commissioned Stichting Aestimavi to carry out an assessment and/or made the request to it for certification is referred to as "candidate" in these terms and conditions.

#### **Article 2 : Validity of offer**

- 2.1 If the quotation issued by Stichting Aestimavi does not specify a period of validity, it shall be 60 days.

#### **Article 3 : Conclusion of the agreement**


- 3.1 An agreement to carry out an assessment shall only be established when the candidate accepts an agreement with Stichting Aestimavi in writing within its period of validity.

#### **Article 4 : Rates and payments**

- 4.1 Stichting Aestimavi is entitled to adjust fees twice a year.
- 4.2 Payments shall be made within thirty days of the invoice date, without any deduction, set-off or suspension. Any objections to the invoice must also be made within the aforementioned period, but do not suspend payment obligations.
- 4.3 In the event of failure to pay on time within the stipulated period, the candidate shall owe Stichting Aestimavi interest of 1% per month on the amount due from the due date until the day of payment. In case the rate of statutory commercial interest exceeds the above-mentioned rate, the statutory commercial interest will be due.
- 4.4 In case that Stichting Aestimavi proceeds to take measures for collection or to enforce its other rights against the applicant, the applicant will be obliged to compensate both all costs relating to third parties engaged by Stichting Aestimavi and costs incurred by Stichting Aestimavi itself which can reasonably be attributed to the measures in question. If payment is not made, Stichting Aestimavi is entitled to have any certificate already issued; if STIPEL, suspended - withdrawn according to Article 15 of the Stipel General Terms and Conditions, if Stichting Aestimavi according to Article 3.3 of the Aestimavi Examination Regulations.
- 4.5 Stichting Aestimavi is authorised at all times, prior to (further) performance, to require the candidate to provide adequate security for the fulfilment of its obligations towards Stichting Aestimavi.
- 4.6 In the event of non-compliance with the Candidate's obligations as set out in Articles 6.2, 6.3 or 7, in these Terms and Conditions, the Candidate will be liable to pay Stichting Aestimavi a penalty of EUR 25.000 (twenty-five thousand euros) in each case immediately and without further notice of default, without prejudice to Stichting Aestimavi's right to claim compensation for damage actually suffered. With regard to third parties, including the relevant government bodies, the Candidate shall also at all times remain fully responsible for compliance with the relevant statutory and contractual regulations and obligations.

#### **Article 5 : Cooperation of the owner practicum**

- 5.1 The practicum owner will make available to Stichting Aestimavi at its own expense (including shipping costs) all materials, information and data required by Stichting Aestimavi for the execution of the agreed certification and/or examination agreement.
- 5.2 The practicum owner will provide Stichting Aestimavi access to the relevant examination locations and ensure the safety of the persons involved.
- 5.3 If it is necessary for the maintenance of Stichting Aestimavi's accreditations, the owner practicum will cooperate in the observation by third parties of Stichting Aestimavi's assessments.

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#### **Article 6 : Reporting and certification**

- 6.1 Stichting Aestimavi will digitally report the results of its assessment to the candidate.
- 6.2 Disclosure of the, results, certificates issued by Stichting Aestimavi to the candidate may be made only by publication through the candidates' portal of these documents verbatim, in their entirety and in the language in which they are issued.

#### **Article 7 : Confidentiality**

- 7.1 Each of the parties shall keep confidential all information that it receives from the other party in the context of the execution of the agreement(s) concluded between the parties or otherwise learns of, the confidentiality of which is established or should reasonably be recognised by the receiving party. The parties shall use such information solely for the fulfilment of their obligations under said agreement(s). These obligations will remain in full force and effect despite termination or dissolution of said agreement(s). The methods and techniques used by Stichting Aestimavi will in any event be considered confidential.
- 7.2 Stichting Aestimavi is entitled to provide information to third parties on the basis of the conditions applicable to the relevant accreditation or to the designation of Stichting Aestimavi as a certification body. Similarly, in the event that the assignment for assessment is aimed at certification by a third party, Stichting Aestimavi is authorised to provide information to that third party for this purpose.
- 7.3 The provisions of Article 7.1 do not apply to information that:
  - a. is public or becomes public without unlawful action by the receiving party, or
  - b. is lawfully made available to the receiving party by a third party without an obligation of confidentiality, or
  - c. was demonstrably already lawfully in the possession of the receiving Party prior to its receipt, or
  - d. designated as non-confidential in a written document by the other party, or
  - e. the receiving party publishes or discloses to the relevant authority pursuant to a legal obligation or a standard of care incumbent upon it.
- 7.4 After the end of the agreement(s) concluded between the parties, each party shall promptly return to the other all confidential information received from the other party, subject to the former party's right to keep one copy of the relevant documents as evidence of the outcome of inspections and certification, and in case a dispute arises between the parties on the matter.
- 7.5 Stichting Aestimavi employees are bound by rules of conduct to ensure confidentiality and independence of the assessments it carries out.

#### **Article 8 : Outsourcing**

- 8.1 Stichting Aestimavi has the right to engage third parties for the execution of agreed work, but remains responsible and liable in this respect, without prejudice to the stipulations in Article 10. Stichting Aestimavi guarantees that the aforementioned third parties will be subject to the same obligations as it is subject to itself.



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#### **Article 9 : Processing of personal data**

- 9.1 To the extent that Stichting Aestimavi processes personal data in the performance of the work, it shall be considered a processor in this respect as referred to in the General Data Protection Regulation; AVG.
- 9.2 The processing of personal data by stichting Aestimavi will be limited to what is strictly necessary for the performance of the work.
- 9.3 Stichting Aestimavi will otherwise process the data only on the basis of written instructions from the candidate or to the extent required by law.
- 9.4 Stichting Aestimavi will destroy the personal data as soon as possible after completion of the work, unless a legal obligation obliges Stichting Aestimavi to further storage.
- 9.5 Personal data shall be considered confidential information as referred to in Article 8.
- 9.6 Stichting Aestimavi will take appropriate technical and organisational measures to ensure a security level appropriate to the risk and periodically assess these measures for effectiveness.
- 9.7 Stichting Aestimavi will inform Candidate about a personal data breach without unreasonable delay and provide Candidate with all relevant (additional) information in that context, unless the personal data breach is unlikely to pose a risk to the rights and freedoms of natural persons. Stichting Aestimavi will document the breaches and all relevant facts and circumstances concerning the breach in that context.
- 9.8 Stichting Aestimavi will assist candidate in fulfilling the obligations arising from the rights granted to data subjects under the AVG, as well as in fulfilling other obligations incumbent on client under the Wbp / AVG.
- 9.9 Stichting Aestimavi will furthermore make available all necessary information required to (be able to) demonstrate compliance with legal obligations at the candidate's first request.  
In this context, Stichting Aestimavi will also allow audits/inspections by the candidate or a third party.
- 9.10 Stichting Aestimavi only makes data available to the certifying body and STIPEL for recording in their database in relation to control via the STIPEL register. This after signing the STIPEL registration form.

#### **Article 10 : Liability**

- 10.1 Stichting Aestimavi is only obliged to compensate the candidate for damages arising from a failure to fulfil any obligation towards the candidate attributable to Stichting Aestimavi or from unlawful act, if and to the extent provided for in these General Terms and Conditions.
- 10.2 The liability of Stichting Aestimavi for any damage referred to in Article 10.1 is limited to the amount of EUR 75,000. (seventy-five thousand euros). If the Candidate owes more than EUR 75,000. (seventy-five thousand euros), the liability of Stichting Aestimavi shall be limited to a maximum of the amount owed by the Other Party for the assignment in question with a maximum of EUR 250,000.-- (two hundred and fifty thousand euros).
- 10.3 Under no circumstances shall Stichting Aestimavi be liable for any form of consequential damage, including but not limited to damage resulting from a delay in the performance of the agreement, loss of candidate information, loss of profits, loss of turnover and damage to reputation or goodwill of the candidate or third parties.
- 10.4 Any obligation to compensate for damages shall lapse if the Candidate has not informed Stichting Aestimavi of the damage in writing within thirty days after the damage was discovered, or within thirty days after the damage should reasonably have been discovered. In any case, any obligation to compensate for damages shall lapse if the Candidate has not filed a legal claim in this regard within one (1) year after the performance of the damage-causing service.
- 10.5 The candidate indemnifies Stichting Aestimavi against any damages that Stichting Aestimavi may suffer as a result of claims by third parties, including employees of Stichting Aestimavi, arising from or in connection with services provided by Stichting Aestimavi on behalf of the candidate. Stichting Aestimavi cannot rely on this indemnification clause if and insofar as the damages of a third party can be attributed to intent or conscious recklessness of Stichting Aestimavi or its management.



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- 10.6 The limitations of liability of Stichting Aestimavi contained in these General Terms and Conditions do not apply in case of damage caused by intent or deliberate recklessness of Stichting Aestimavi or its management.
- 10.7 The limitations in the compensation obligation as well as the Candidate's obligation to indemnify on the basis of these General Terms and Conditions shall also apply for the benefit of employees of Stichting Aestimavi and for the benefit of third parties used by Stichting Aestimavi in the performance of its obligations.
- 10.8 Stichting Aestimavi is not liable for a failure to fulfil any of its obligations if the failure is caused by a circumstance beyond the control of Stichting Aestimavi (force majeure). During force majeure the obligations of Stichting Aestimavi shall be suspended. If the period in which fulfilment of obligations by Stichting Aestimavi is not possible due to force majeure lasts longer than thirty days, both parties are authorised to dissolve the agreement without judicial intervention, without there being any obligation to pay damages in that case. Force majeure shall in any case be understood as measures taken by the government.

#### **Article 11 : Termination of the agreement**

- 11.1 Without prejudice to the provisions of the previous articles, if the Candidate fails to fulfil any of its obligations to Stichting Aestimavi, or fails to do so properly or on time, Stichting Aestimavi will have the right, without judicial intervention, to suspend the execution of the agreement or to dissolve the agreement in full or in part without Stichting Aestimavi being liable to pay any compensation for damages, but without prejudice to the right to compensation for damages resulting from the default and the suspension or dissolution. The same applies if the Stichting Aestimavi fears that the candidate will fail to comply with its will fail to fulfil its obligations and fails to provide adequate security at the first request of Stichting Aestimavi sets for the fulfilment of its obligations. In these cases, any claim that Stichting Aestimavi chargeable to the client is payable immediately and at once.
- 11.2 In the event of bankruptcy, suspension of payments, liquidation, or administration, receivership, or receivership, the candidate will be deemed to be in default by operation of law; in that case, without any notice of default and without judicial intervention, Stichting Aestimavi will have the right to terminate the dissolve all or part of the agreement under the same conditions as mentioned above.

#### **Article 12 : Certification or examination agreement**

- 12.1 Agreements entered into by Stichting Aestimavi granting the candidate the right to carry one or more certificates, certification marks and/or statements of compliance ("certification"). Only written agreements signed by both parties are valid.
- 12.2 By entering into agreements with the certification body (STIPEL, etc.), the candidate gives permission to the certification body to use the candidate's personal data in relation to the registration in the database of this certification body and the STIPEL register. If the candidate does not wish to make his/her data available as described, the candidate should indicate this by writing to the certification body or bodies.

#### **Article 13 : Complaints and disputes**

- 13.1 Complaints from the candidate about the services provided by Stichting Aestimavi will be handled by Stichting Aestimavi in accordance with the applicable complaints procedure as described on the Stichting Aestimavi website.
- 13.2 Complaints/objections by the candidate with regard to the taking/pasted STIPEL exam(s) must be addressed by the candidate to STIPEL according to STIPEL's General Terms and Conditions under Article 16 or Article 17 of the General Terms and Conditions in question.



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- 13.3 When Stichting Aestimavi receives complaints about its certified persons, Stichting Aestimavi will investigate the accuracy of the complaint. Both the complainant and the certificate holder will be heard and the outcome of the investigation will be reported to both of them. If, in the opinion of Stichting Aestimavi, the complaint is well-founded, the certificate holder must take measures without delay, which will give the complainant as much satisfaction as possible and prevent repetition of the complaint.
- 13.4 If decisions by Stichting Aestimavi qualify as 'a decision' within the meaning of the General Administrative Law Act, in addition to the right to make its objections known through the aforementioned complaints procedure, a certificate holder also has the right to lodge an objection in accordance with the provisions of the General Administrative Law Act. If Stichting Aestimavi rejects the objection, the certificate holder has the right to appeal to the competent administrative court in Zwolle within six weeks from the date of Stichting Aestimavi's rejection decision.
- 13.5 All disputes between the parties arising from or related to the execution of an agreement to which these General Terms and Conditions apply shall be submitted for settlement exclusively to the competent court in Zwolle, the Netherlands, unless otherwise agreed, without prejudice to the authority of Stichting Aestimavi to submit the dispute to another court that would have been competent in the absence of this clause.
- 13.6 The conclusion and execution of the agreements to which these General Terms and Conditions apply shall be governed by Dutch law, unless otherwise agreed.

#### **Article 14 : Duration and termination of the certification agreement / examination agreement**

- 14.1 Unless otherwise agreed, the certification agreement is entered into for an indefinite period.
- 14.2 Unless otherwise agreed, the examination agreement is valid during the period in which the examination with all components must be completed with a positive result.
- 14.3 If the relevant certificate or certificates have a period of validity, both parties may terminate the certification/exam- agreement by the date on which the said period of validity expires. If the certification/exam- agreement covers several certifications, the agreement may be terminated in respect of each certification by the date on which the validity period of the relevant certificate expires. Stichting Aestimavi will not proceed to terminate the certification/exam- agreement unless it cannot reasonably be required to continue the agreement for operational reasons and without prejudice to the provisions of Articles 11.
- 14.4 If the relevant certificate or certificates have no period of validity, both parties may terminate the certification/exam- agreement in respect of each certification with three months' notice. The provisions of the last sentence of article 14.3 shall apply.
- 14.5 The certification/exam- agreement shall in any case terminate in respect of each certification at the time when the applicable legal requirements and/or guidelines lapse or change in such a way that the certified products, processes, management systems or persons no longer comply with them.

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