



GENERAL CONDITIONS  
KAYAK

**Article 1: Field of application**

- 1.1. These General Conditions apply to all activities and/or services performed by KAYAK, or of the subcontractors acting on behalf of KAYAK (hereinafter referred to as "KAYAK"). Depending on the nature of the assignment, activities or other types of performance and/or depending on any portion to be reasonably considered as independent part thereof, other clauses can apply. KAYAK is also authorized to call upon these General Conditions in case of extra-contractual agreements against her.
- 1.2. Variations of these General Conditions can only be recognized if these were accepted in writing and beforehand by KAYAK. When the occasion arises, these variations only apply for the activities and/or services for which they were agreed upon.
- 1.3. The Client confirms that the waste material/goods, which he puts under the care of KAYAK on the occasion of his assignment, are his property, which, as representative of the owner, he may either dispose of this waste material/goods, as such that he accepts the present conditions not only for himself but also for his principal, as well as for the owner thereof.
- 1.4. These conditions shall apply as soon as KAYAK and the Client have entered into an agreement regardless whether this agreement was reached in writing, verbally or tacitly. The Client recognizes having taken note of these General Conditions and having expressly renounced his own General Conditions even if these would be announced later than the present General Conditions.
- 1.5. Should these General Conditions be modified, the new text of the General Conditions applies as of the date of notification.

**Article 2: Quotes, prices and assignments**

- 2.1. Except if expressly stipulated otherwise, a written or verbal quote is completely without obligations.
- 2.2. Assignments can only be considered as accepted and binding if these were accepted by KAYAK in writing or if the execution thereof has commenced.
- 2.3. If an accepted assignment is cancelled by the Client, the latter is bound to reimburse all expenses incurred by KAYAK as well to pay a fixed compensation amount of 20% of the price of the assignment, as indicated in the quote; without prejudice to the right of KAYAK to claim additional damages if it can prove that the damage exceeds the aforementioned amount.
- 2.4. If prices increase upon acceptance of the assignment and/or during the execution thereof, which KAYAK was not able to influence, such as the increase of the prices of materials, raw materials, components, including increases as a result of changed exchange rates, import duties, taxes and other governmental measures, etc., KAYAK is entitled to unilaterally increase the agreed prices accordingly.
- 2.5. Except if expressly stipulated otherwise, the prices only include the compensation for the service provided by KAYAK or products delivered including the normal accompanying costs. In other words, the prices do not include levies imposed by the government, customs or other institutions, such as VAT, import duties, fines, etc., nor other obligations or expenses such as transportation expenses. These are calculated separately.
- 2.6. Unless agreed otherwise, time for prices or rates, based on unit prices per duration of time (for instance in case of renting or supplying of goods or premises), starts running as of the moment when the object has been made available to the Client at the agreed location, and more precisely until the moment when it has been made completely available again to KAYAK. However, time is of course extended that is necessary for possible repairs of damage which occurred during the supply, if the Client is liable for the damage concerned based on these General Conditions or based on any applicable legal stipulation.
- 2.7. Furthermore, the prices are based on a normal performance, such as within normal working hours and normal duration of time. The prices are for instance calculated at locations that are easy and safe to reach, very accommodating and easy and safe to reach by land and/or water and based on the technical and/or commercial parameters indicated by or on account of the Client, with regard to the nature, characteristics and composition of the waste material, samples and documents, as well as with regard to information about inland vessels and/or ocean-going vessels, the correctness and completeness of which can be assumed. If it shows afterwards that in fact these conditions are not met, either with respect to the performance or with respect to the duration or time, KAYAK is entitled to increase the prices with all additional costs arising as a result thereof – plus – a reasonable profit and/or the right to leave the assignment unexecuted or, if the case may be, to break off and cancel the assignment in the meantime at a time to be determined by KAYAK, in which case KAYAK has the right to 20% of the price of the assignment, as indicated in the quote; without prejudice to the right of KAYAK to claim additional damages if it can prove that the damage exceeds the aforementioned amount.



### **Article 3: Pickup/Transfer of waste material**

#### **3.1. Definitions**

**Waste material:** all substances, preparations or other products which are offered to KAYAK under the agreement or quote between the parties, including sludge, washing water, load remains, hazardous materials, which the Client wishes to dispose of, whether or not forcibly. All materials loaded in ships or trucks are considered as waste material in the scope of an assignment to pick up waste material and are transported and process as such.

**Pickup methods:** all whether or not reusable pickup methods such as containers, tank lifters, ships, trucks, with accessories, etc., used for the temporary storage, transport and/or delivery of waste material.

#### **3.2. Documents and samples and conformity of the waste material**

3.2.1. The Client is obligated to provide the following when entering into an agreement:

- a) A complete description of the nature, characteristics and composition of the materials offered.
- b) All permits and documents necessary to meet any legal requirement.
- c) Representative samples of the materials which the Client wishes to deliver to KAYAK.
- d) MSDS-documents.
- e) Analysis results, if present.

3.2.2. In case of non-conformity of the waste material, KAYAK reserves itself the choice to dissolve the agreement and to return the waste material to the Client, or to charge the extra expenses for processing, transport and treatment to the Client. The Client is liable for all direct and indirect damages resulting from the non-conformity of the waste material. The Client also indemnifies KAYAK against the claims from third parties.

3.2.3. Non-conformity of the waste material can also be detected after picking up and unloading the waste material. Final acceptance of the waste material shall only occur upon acceptance by the processing center.

### **Article 4 Renting-supplying waste containers and other pickup methods**

4.1. The Client is bound to describe all characteristics of the waste to be delivered beforehand and accurately, in a timely and correct fashion and in accordance with all legal requirements, as indicated in article 3.2.1. In case of non-conformity of the waste material, articles 3.2.2. and 3.2.3 apply.

4.2. The Client is not permitted to deposit environmentally polluting materials (such as (not limitative) car tires, gas bottles, oil filters, carcasses, hazardous or toxic materials) or hardened materials (such as (not limitative) fluid concrete and mortar) or infectious materials (such as animal kitchen waste) other materials for which the law imposes certain conditions or limitations, in a container not specifically intended for this purpose. In case of violation thereof, KAYAK reserves itself the choice to dissolve the agreement and return the waste material to the Client, or to charge the extra expenses for process, transport and treatment to the Client. The Client is liable for all direct and indirect damages resulting from the violation of this obligation. The Client also indemnifies KAYAK against agreements of third parties.

4.3. KAYAK bindingly determines the weight of the waste material by means of calibration. The permitted weight for a waste container is always maximum 10 ton. Overloading in weight, volume or content gives KAYAK the right to recover the resulting damage from the Client.

4.4. The Client is liable for all damages (including loss as a result of theft) afflicted to and by the container and other pickup methods, between the time when it is placed at the agreed upon location and at the time of pickup by the KAYAK.

### **Article 5: Sale-delivery of goods**

5.1. The goods are delivered as determined in the order confirmation. Dimensions, weights, quantities, degrees, percentages, etc., as mentioned in the order confirmation, will be observed as precisely as possible by KAYAK, given nevertheless the usual tolerances regarding variations for the goods. Variations in dimensions, weight, etc., which fall within these usual tolerances, do not affect the legal validity of the purchase-sale and do not grant the Client any claim (e.g. dissolution of the purchase-sale, withholding of the payment, price reduction, damages, refusal of goods) by order of KAYAK.

5.2. The goods are deemed to be delivered to the Client as soon they have reached the destination, as indicated in the order confirmation. KAYAK is responsible for transporting the goods to the point of destination. The Client is responsible for the possible export and import formalities as well as for the accompanying costs. The risk with regard to the goods falls on KAYAK until the moment when the goods have reached their destination; from that moment on, the risk is borne by the Client. The Client is always responsible for unloading the goods at the point of destination, the risks in this regard are borne by the Client. The aforementioned unloading of goods needs to occur immediately upon arrival of the goods at the destination; in the absence of which KAYAK is entitled to unload the goods there and leave these behind with the costs and risks borne by the Client.

5.3. The delivery of the goods also includes the acceptance of these goods by the Client. Possible visual deficiencies with regard to the goods are also covered from this moment on. The same applies with regard to a possible non-conformity between delivered and sold goods. KAYAK only owes indemnification for serious, hidden deficiencies of the goods which result from parts and/or



manufacturing errors, whereby all other causes are excluded, and which were already present at the time when the purchase-sale was realized. The obligation of indemnification, which would possibly affect KAYAK, is definitely limited to the free replacement of the defective goods upon return thereof by the Client; the costs accompanying the return of the defective goods in view of their free replacement also borne by the Client.

**Article 6: Act of God**

- 6.1. KAYAK cannot be held liable for direct and/of indirect consequences of an Act of God or government decisions which affect the execution of the assignment. This includes the following circumstances: war, rebellion, social unrest, strike, lockout, interruption or increase of traffic, shortage of storage locations, floating ice floes, snowfall, floods or unforeseen natural phenomena. When the occasion arises, any damage can be attributed to these circumstances.
- 6.2. In case of an Act of God, all agreements are legally suspended for the duration of the aforementioned incidents without KAYAK owing any damages for the non-execution of an agreement. When the situation of an Act of God in question makes the execution of the commitment permanently impossible or senseless, both KAYAK and the Client can decide to consider the agreement dissolved without the compensation for damages.

**Article 7: Payment conditions**

- 7.1. Except for any other agreement, the invoices are payable within twenty-one (21) days of the date of the invoice. Payments are only valid if these are carried out at the offices of KAYAK, or to one of its financial accounts. Banking fees are borne by the Client.
- 7.2. Invoices which are not legally appealed are considered accepted. The appeal can only be legally made by means of registered letter within eight (8) days of the date of the invoice.
- 7.3. In case of non-payment of the price or the still outstanding balance thereof, on the due date of the invoice, this will be increased with a compensation of 10% of this price or balance (with a minimum compensation of 75 EUR), which corresponds to the hindrance suffered by KAYAK and to the accompanying administration fees incurred. Furthermore, the price or the still outstanding balance thereof is to be increased then and as of the due date of the invoice with the interest rate as provided in the law on preventing delayed payments of August 2, 2002. The aforementioned compensation and conventional interest in arrears are legally owed without any warning notice being required. The conventional interest in arrears is settled per commenced month.
- 7.4. The non-payment, be it partially, of the price on the due date of an invoice makes the owed balance of all the other, even non-expired, invoices immediately claimable by law and without prior proof of default.
- 7.5. The Client is not entitled to compensation.

**Article 8. Securities**

- 8.1. If the trust of KAYAK in the creditworthiness of the Client is shaken by acts of judicial execution against the Client and/or demonstrable other events which question and/or make the trust in the good execution of the commitments made by the Client impossible, the Client is bound to provide the securities requested by KAYAK for the payment of all performances rendered previously and still to be rendered.
- 8.2. Pending the provision of the requested securities, KAYAK is entitled to suspend the execution of the assignments. If the Client has not provided the requested security within 7 days, KAYAK is authorized to dissolve the agreement by law and without proof of default provided this is only announced to the Client, and is authorized to demand fixed damages of 20% of the quote; without prejudice to the right to claim additional damages if it can prove that the damage exceeds the aforementioned amount.

**Article 10: Liability of KAYAK**

- 10.1. KAYAK is not liable for delays in the execution of the assignments. Completion deadlines given by KAYAK are thus only for information purposes and by no means binding. Delays in completion deadlines do not grant the Client the right to terminate the agreement (have the agreement terminated by the judge), to claim damages or withhold payment.
- 10.2. Without prejudice to what is stated in article 10.1., KAYAK is only liable for the damage and/or loss which is the direct result of its own scheme or deceit. KAYAK is not liable in case of (gross) negligence of itself and/or its duly appointed or, in the case of a deliberate error, of its duly appointed.
- 10.3. KAYAK is never liable for any indirect damage, including economic loss, consequential damage or immaterial damage.
- 10.4. Possible liability of KAYAK, regardless of its cause, is always limited to amounts that are paid out by its liability insurer and for which coverage is granted. Upon first request, KAYAK provides you with the general and special conditions of its liability Insurance policy.



10.5. Each legal claim by order of KAYAK needs to be filed within a term of 6 months as of the execution of the assignment, unless provided otherwise in the law or elsewhere in the present General Conditions, in which case a shorter term needs to be taken into account.

**Article 11. Electronic communication**

11.1. The client accepts the use of electronic means of communication.

11.2. The client, however, reserves itself the right to request a non-electronic process when confirming its order.

**Article 12. Disputes**

12.1. Only the courts of the judicial district of Antwerp are authorized to take note of the disputes between the parties.

12.2. Only Belgian law applies to possible legal claims between the parties.

**Article 13. Nullity**

The possible nullity of one or more stipulations of these General Conditions does not result in the nullity of the other stipulations of these General Conditions, or of the agreement.