

OCTOBER 2018

## General Terms and Conditions Marsh B.V.

### **ARTICLE 1 APPLICATION OF THE GENERAL TERMS AND CONDITIONS**

- 1.1** Marsh B.V. (hereafter referred to as 'Marsh'), having its office at Conradstraat 18, 3013 AP, Rotterdam, the Netherlands, is a Dutch limited liability company ('Besloten Vennootschap'), with its registered office in Rotterdam and registered at the Chamber of Commerce of Rotterdam under number 24120005.
- 1.2** The general terms and conditions (hereafter referred to as 'the General Terms and Conditions') are also stipulated for the benefit of the directors of Marsh and all persons employed by Marsh.
- 1.3** The General Terms and Conditions apply to all assignments and services performed by Marsh for the other party (hereafter referred to as 'the Client'). Assignments include but are not limited to: offers made by Marsh, advice given by Marsh and agreements concluded by Marsh and the Client. For the avoidance of doubt, the Client can be in this respect a legal entity or an individual.
- 1.4** Any other terms and conditions, shall not apply, unless these are accepted by Marsh in writing in their entirety and without amendment.
- 1.5** Deviations from and/or additions to the General Terms and Conditions only bind Marsh insofar Marsh and the Client have agreed expressly and in writing on these.

- 1.6** If any clause of the General Terms and Conditions is deemed to be null and void or voidable, that clause shall no longer apply. To the extent that it is practicable all other clauses shall remain in full force.

### **ARTICLE 2 THE NATURE OF SERVICE DELIVERED BY MARSH**

Marsh shall advise the Client in its role of insurance broker and insurance and risk consultant about insurance coverages and/or risks and/or act as an intermediary with regard to the conclusion of and the service delivered with regard to ongoing insurance agreements. Marsh is authorised to represent and assist the Client in all discussions and transactions with insurers related to the insurances.

### **ARTICLE 3 FORMATION OF THE AGREEMENT**

- 3.1** Any offers and prices provided by Marsh will be non-binding, unless specified expressly otherwise.
- 3.2** An agreement in respect of the Assignment (hereafter referred to as 'the Agreement') is deemed to be concluded once Marsh has accepted the assignment in writing or has begun the work necessary to complete the Assignment. Marsh has the right to refuse Assignments without providing reasons.
- 3.3** Marsh is permitted to sub-contract its obligations under the Agreement to third parties. Marsh will, in so far as is

reasonably practicable, consult with the Client in advance with regard to the use of third parties.

- 3.4** The Agreement is also governed by the Service Principles. The Service Principles have been provided to the Client and can also be found on the website of Marsh ([www.marsh.nl](http://www.marsh.nl)).

#### **ARTICLE 4 OBLIGATIONS OF THE CLIENT**

- 4.1** The Client shall provide, whether or not it is specifically requested, any all information to Marsh, which the Client deems necessary and/or desirable to enable the correct execution of the Agreement by Marsh. If the Client:
- does not provide the necessary data for the execution of the Agreement to Marsh;
  - does not provide the necessary data in a timely fashion; or
  - provides the necessary data in contradiction with the concluded Agreement or has not fulfilled its (information) obligations.

Marsh has the right to suspend the execution of the Agreement.

- 4.2** The Client warrants the correctness and completeness of all information provided by the Client to Marsh.
- 4.3** The Client shall check the correctness and completeness of the documents provided by Marsh and will inform Marsh immediately of any errors or omissions.
- 4.4** The Client will inform and instruct, where applicable, its subsidiary or subsidiaries about the insurance program.
- 4.5** The Client will provide all relevant information on time to Marsh prior to acquisitions, expansions disposals, investments and takeovers.
- 4.6** If the Client has a complaint about the services, provided by Marsh, the Client shall inform the contact person or the Compliance Officer of Marsh about this as soon as possible. Marsh endeavors to process any complaints as soon as possible and to take all interests involved into account.

#### **ARTICLE 5 COMPENSATION AND PAYMENT**

- 5.1** At the conclusion of the Agreement, the Parties agree on how Marsh will be compensated.
- 5.2** Marsh will be entitled to be compensated by receiving either:
1. a part of the insurance premium (brokers commission);

2. an honorarium (fee);
3. a combination of both.

All fees, commissions and expenses are (unless otherwise expressly stated) exclusive of any taxes and/or levies. Changes in government taxes and/or levies shall be invoiced to the Client.

- 5.3** Notwithstanding the above, Marsh will be entitled to receive additional compensation, such as a damage settlement commission, redress costs and/or handling costs with regard to non-covered damages and interests.

- 5.4** Marsh will also be entitled to receive additional compensation for drafting policies, administration or similar services, which Marsh delivers instead of the insurer for the benefit of the Client.

Marsh is also permitted to receive separate compensation from the insurers for other services delivered by Marsh, for example, in the area of consultancy and administration. These services are delivered separately from the services delivered by Marsh to you.

- 5.5** The Client shall pay all invoices to Marsh within 30 days of the invoice date, without deducting or settling any amounts still payable by Marsh to the Client.

#### **ARTICLE 6 LIABILITY**

- 6.1** Marsh will only be liable for direct loss, if and insofar this loss is the consequence of non-compliance or untimely or incomplete performance by Marsh of its obligations. With the exception of intent or gross negligence, Marsh will not be liable for loss of data, loss of profits, loss of revenue and other indirect and consequential losses. The liability of directors and all persons employed by Marsh is excluded.

- 6.2** Marsh cannot be held liable for the consequences of incorrect or incomplete information provided by the Client.

- 6.3** The liability of Marsh is at all times limited to an amount of EUR 2,500,000.00 (two million and five hundred thousand Euro) per event and per year.

- 6.4** Each claim against Marsh must be filed within one year of the date, on which the Client became aware or should have been aware of the grounds that form the basis of the claim.

- 6.5** The Client will indemnify Marsh against any claim by third parties relating to the performance of the contract by Marsh, insofar as any such claims exceed or differ from the claims the Client has in relation to Marsh.

**6.6** If Marsh has received existing insurance programs, policies or claim files from the Client, Marsh cannot be liable for damage caused by errors in or the incompleteness of these programs, policies or claim files nor for the advice and/or recommendations given by third parties in this respect.

**6.7** Marsh cannot guarantee the solvency of the insurers and the Client should therefore take into account that the financial position of an insurer can change after the start of the cover. Marsh cannot accept liability for the financial position of insurers.

**6.8** Marsh shall maintain sufficient professional liability insurance.

#### **ARTICLE 7 FORCE MAJEURE**

**7.1** Marsh will not be held to the fulfilment of any obligation that is not reasonably possible for Marsh to perform as result of events occurring outside the control of Marsh.

**7.2** Marsh will not be obliged to provide services in the area of insurance or reinsurance brokerage, risk consultancy, claim handling or other services if Marsh or its affiliates would thereby infringe applicable sanction legislation, a prohibition or a restriction of a resolution of the Security Council of the United Nations or other applicable sanction laws or regulations.

#### **ARTICLE 8 INTERMEDIATE AMENDMENT OR TERMINATION**

**8.1** Amendments, additions and/or extensions with regard to the Agreement are only binding after these are agreed in writing between the parties.

**8.2** If one of the parties fails to fulfil an obligation under the Agreement, the other party will give the defaulting party written notice of this. The defaulting party shall be given the opportunity to meet its obligations within a reasonable period. If after this period the defaulting party has still not met its obligations, the Agreement may be terminated by the other party.

**8.3** In case of bankruptcy or suspension of payment of the Client, Marsh has the right to terminate the Agreement with immediate effect.

#### **ARTICLE 9 NON-DISCLOSURE**

**9.1** Marsh and the Client agree to keep confidential information confidential. This obligation ends two years after the termination of the Agreement.

**9.2** Article 9.1 does not apply if providing information and data to third parties is necessary for the correct execution of the agreements between Marsh and the Client.

**9.3** This article does not cover data:

- i. which were already known to Marsh prior to the conclusion of the Agreement;
- ii. which are gathered by Marsh independently;
- iii. which may be considered public knowledge;
- iv. which Marsh or any party, to which Marsh has provided the information under the Agreement, is legally obliged or obliged under a court ruling or similar to provide, being understood, however, that Marsh is under the obligation to inform the Client about the obligation to disclose the Confidential Information.

**9.4** As part of our negotiations with insurers on your behalf, Marsh may on occasion be able to obtain more favourable terms and conditions for your placement by providing insurers with certain types of information. Where Marsh believes your interests would be advanced by doing so, you authorise us to do the following:

- at the outset of the negotiations, to provide insurers with the terms of the expiring policy, including pricing, and/or a pricing objective for your placement;
- during negotiations, to provide one or more insurers with the terms of with the terms of a quote received from another insurer, where in our judgement doing so may lead to improved terms for you; and
- at the end of the negotiations, to provide one or more insurers with an opportunity to submit an improved quote after all other quotes have been received.

#### **ARTICLE 10 PROTECTION OF PERSONAL DATA**

**10.1** Marsh agrees to comply with data protection and data privacy laws applicable to the services provided in relation to the Engagement.

**10.2** To provide the services as broker and risk consultant, Marsh will collect and use information about individuals, such as their name and contact details, which may also include special categories of data (e.g. about their health and information relating to criminal convictions and offences). The purpose for which Marsh uses personal data may include arranging insurance cover, handling claims and for crime and fraud prevention. More information about our use of personal data is set out in the Marsh Privacy Notice available at [www.marsh.com](http://www.marsh.com).

marsh.com . You can also request a copy of the Marsh Privacy Notice by email or writing to [privacy.nederland@marsh.com](mailto:privacy.nederland@marsh.com) We recommend that you review this notice.

- 10.3** Providing the services may involve the disclosure of personal data to third parties such as insurers, reinsurers, loss adjusters, sub-contractors, affiliates of Marsh and to certain regulatory bodies who may require your personal data themselves for the purpose described in the Marsh Privacy Notice.
- 10.4** Depending on the circumstances, the use of personal data described in this notice may involve a transfer of data to countries outside the European Economic Area that have less robust data protection laws. Any such transfer will be done with appropriate safeguards in place.
- 10.5** In some circumstances, Marsh may need to collect and use special categories of personal data (e.g. health information and information relating to criminal convictions and offences). Where this is required, unless another legal ground applies, your consent to this processing is necessary for Marsh to provide you with the relevant services and you consent to such processing. Although you may withdraw your consent at any time, if you do Marsh may be unable to continue to provide services to you and this may mean that we are unable to process your enquiry or claim or that your insurance cover will stop.
- 10.6** In case you provide Marsh with personal data about any other person than yourself, you confirm that you have obtained the consent of any data subject whose personal data you provide to us, being used in accordance with this Engagement. Marsh shall be entitled to assume that any person disclosing personal data to Marsh is doing so in compliance with all applicable data protection laws. Although a third party may withdraw its consent at any time, if it does Marsh may be unable to continue to provide services to the third party and to you and this may mean that we are unable to process your enquiry or claim or that your insurance cover will stop.
- 10.7** Marsh may use data of the insurance program of the Client anonymously for benchmarking, model analysis and/ or analyses. Marsh offers an advanced range of analysis possibilities to clients, insurers and other parties. Clients have the possibility to consult benchmark databases,

analyses, questionnaires and other kinds of models and information sources. These products are designed to help clients to assess more effectively risks and to make better informed decisions with regard to the insurance programs to be followed and the choice of other risk limiting strategies. Marsh and affiliated companies may receive compensation for these services from clients, insurers and other parties.

- 10.8** MarketConnect is Marsh's industry leading proprietary technology suite that allows Marsh to assist insurers in their efforts to improve their performance and create superior solutions for Marsh's clients. Within MarketConnect, Market Match is a proactive tool that allows insurers to identify business opportunities in advance of renewals, enabling them to be considered for risks for which they historically had not been considered. In MarketConnect, corporate client names and certain other information are provided to insurers when viewing upcoming renewals that meet their stated risk appetite. MarketConnect is part of Marsh's insurer consulting offering for which Marsh receives compensation from insurers.

#### **ARTICLE 11 SETTLEMENT STIPULATION**

Marsh has the right, unless agreed otherwise, in case of any payment delays of the Client to settle the premiums or compensations due along with the legal interest accrued over these amounts with the claim payments, premium restitutions and any other payments meant for the Client and received through Marsh.

#### **ARTICLE 12 APPLICABLE LAW AND DISPUTES**

- 12.1** Dutch law applies to all offers, quotes and agreements of Marsh.
- 12.2** The Parties endeavor to find an amicable settlement with each other for any disputes arising from the Agreement. If an amicable settlement is not possible, the disputes shall be submitted to the court of the competent jurisdiction in Rotterdam, unless the Client and Marsh agree to settle the dispute through arbitration or in any other way.

#### **ARTICLE 13 INTELLECTUAL PROPERTY**

- 13.1** Marsh shall retain all ownership, title, copyright and other intellectual property rights in all materials developed,