



**General Conditions  
for the Delivery of Forensic Services  
Netherlands Forensic Institute (NFI)**

**Article 1: Applicability of the General Conditions and Formation of the Agreement**

- 1.1 The Netherlands Forensic Institute ("**NFI**") is an agency of the Dutch Ministry of Security and Justice, acting under the authority of the Directorate General for the Administration of Justice and Security. The NFI offers various services, which include providing advice, conducting examination/analysis upon instruction, and performing similar activities in the area of law enforcement, criminal investigation, and prosecution (jointly referred to as the "**Services**" and separately as the "**Service**").
- 1.2 These general conditions ("**General Conditions**") apply to both the present agreement and to all future agreements pertaining to the Services entered into between the NFI and the client ("**Client**") ("**Agreement**").
- 1.3 The NFI explicitly declares the general conditions of the Client to be inapplicable. If NFI's *General Conditions on Training and Courses* also apply to the Agreement, the present General Conditions for the Delivery of Forensic Services prevail as far as the delivery of Services is concerned. The NFI may modify these General Conditions at any time. The most recent version of the General Conditions can be found at the website of the NFI.
- 1.4 It is expressly agreed that these General Conditions between the NFI and the Client exclude the applicability of any terms and conditions, of whatever nature, used by the Client, even if these terms and conditions stipulate priority.
- 1.5 Sections 404 and 407(2) of Book 7 of the Dutch Civil Code do not apply to this Agreement. Unless otherwise agreed in writing, the NFI is authorised to appoint another employee/natural person to perform the Services.

**Article 2: Price and Payment**

- 2.1 The price agreed between the Parties ("**Price**") for one or more Services to be delivered is exclusive of all charges, taxes, excise duties, levies, import duties, export duties, and other costs of, among other things, insurance, translations, authentications, visual material, or costs of sending and returning samples/other material, as well as costs associated with replies to objections by operation of law and actions from third parties (including opposition proceedings in court), and all other external costs, which are payable by the Client. Unless explicitly otherwise agreed, the costs of hearing an NFI expert witness in court is also excluded from the Price.
- 2.2 The Client undertakes to pay the Price to the NFI in euros within 30 (thirty) days of the invoice date by transfer to the bank account designated by the NFI. Payments must be effected without tax deduction and without setting off or applying other counter claims.



- 2.3 If the Client fails to pay the Price within 30 (thirty) days of the invoice date, the NFI may charge a statutory interest rate applicable in the Netherlands on the overdue payments, without further notice of default being required and without prejudice to all other rights. All costs and expenses made by the NFI in connection with the collection of overdue payments, including any reasonable lawyer's fees, expert fees, court fees, and other legal costs, are payable by the Client.
- 2.4 Any complaints regarding an invoice must be submitted to the NFI within 14 (fourteen) days of the invoice date. After expiry of this term, the Client is deemed to have approved the invoice.

### **Article 3: Change to Services and Cancellation**

- 3.1 If the Client refuses or rejects any Services of the NFI without valid reasons, or wrongly cancels or refuses to acknowledge a confirmation of acceptance of Services from the NFI, the Client is nonetheless obliged to pay the Price to the NFI, such to the extent that the capacity reserved for the Services cannot be deployed otherwise. This obligation of the Client does not prejudice NFI's right to recover all other loss from the Client caused by such an action.

### **Article 4: Obligation to Provide Information**

- 4.1 The Client is obliged to provide all information it regards as relevant to the NFI and to also ensure that all data, which the NFI indicates to be necessary or which, as the Client should reasonably be deemed to understand, are relevant to the execution of the Agreement, are provided to the NFI in time. If the data required for the execution of the Agreement have not been provided in time, the NFI has the right to suspend the execution of the Agreement and/or to charge the Client for the additional costs resulting from the delay, at the rates applicable at the time. The execution period does not start until after the Client has provided the data to the NFI.
- 4.2 If the NFI conducts an examination of traces, the Client is responsible for the selection, representativeness, and affixing of ID codes to the samples, as well as for making them available to the NFI. Upon delivery of samples to the NFI, the Client is obliged to clearly inform the NFI, in writing, of any dangerous properties of the samples and to label the samples as dangerous.
- 4.3 Unless otherwise agreed, the Client undertakes to collect any samples (or the remnants thereof) made available, immediately after the performance of the Services by NFI at the NFI, on submission of a receipt. If the Client fails to collect the samples (or the remnants thereof), or fails to do so in time, the NFI has the right to keep or destroy the samples, or dispose of them otherwise, at the Client's risk and expense. The transportation of the samples (or the remnants thereof) will be at the Client's risk and expense.

## **Article 5: Use of the Results of the Examination of Traces**

- 5.1 Upon the Client's assignment of the NFI to carry out an examination of traces, the NFI grants the Client the right to use the results of the Services contained in the examination reports within the framework of any court proceedings for which the Client has had the examination carried out.
- 5.2 Without NFI's prior written consent, the Client is, however, not permitted to publish all or part of any report issued by the NFI on the Services, to allow third parties inspection of the reports for reasons other than the court proceedings referred to in the previous paragraph, or to allow inspection of such reports by third parties who are not directly involved in the court proceedings referred to, or to use the reports in civil claims initiated or to be initiated by or against the Client.
- 5.3 The Client is furthermore not permitted to use the name of the NFI in connection with the Services without NFI's prior written consent.
- 5.4 If the NFI grants the consent as referred to in the preceding paragraph, this consent will be subject to the condition that the Client does not use the results of the Services in such a way that the correctness of those results is affected negatively or contradicted, and that the Client will only make complete reports available to other parties.

## **Article 6: Limitation of Liability**

- 6.1 The NFI performs the Services to the best of its ability, but does not guarantee that any result envisaged by the Client is achieved.
- 6.2 If the Client fails to fulfil its obligations towards the NFI, the Client is liable for any resulting direct and indirect loss incurred by the NFI. The Client indemnifies the NFI, in particular, against liability towards third parties for loss incurred as a result of providing incorrect and/or inadequate information, as well as against third-party claims resulting from the execution of the Agreement by the NFI. The NFI is not liable for any loss resulting from the fact that the result of the Services is allegedly not suitable for conducting legal proceedings or because third-party rights are infringed by or due to the application of the Services.
- 6.3 The advice provided by the NFI regarding the use of the results of the Services, or regarding their suitability for a specific goal, does not affect the Client's obligation to use its own expertise and judgment with regard to the use of the results of the Services. Except in the event of intentional act or gross negligence, the NFI does not assume any liability based on the said advice.
- 6.4 The NFI is only liable for any loss incurred by the Client resulting from NFI's failure to execute the Agreement, or to do so in time, yet such loss is limited to a maximum amount that is equal to the amount payable by the Client to the NFI pursuant to the Agreement. The NFI is not liable for any indirect loss, consequential loss, loss resulting from lost profits, et cetera.

- 6.5 If the loss is not notified to the NFI by the Client in writing within 21 (twenty-one) calendar days of the discovery thereof, the Client's claim for damages shall lapse. All claims shall lapse in any case after a period of 12 (twelve) months of the date on which the claim arose.

#### **Article 7: Suspension and Termination**

7.1 If:

- (a) the Client fails to perform its obligations towards the NFI; or
- (b) the NFI has reasonable doubts with respect to the Client's performance of its obligations towards the NFI, and, at NFI's request, the Client fails to provide sufficient security to the NFI for its performance, and it fails to do so before the scheduled delivery, i.e. at least within 30 (thirty) days of NFI's request for such security;

the NFI may, without prejudice to any other rights of the NFI, immediately suspend its performance or terminate the Agreement by giving notice in writing, unless the Client pays in advance in cash or as yet provides sufficient security to the NFI, all this without court intervention and without this resulting in any liability for the NFI, of whatever nature, ensuing from or in connection with the suspension or termination referred to. All outstanding claims of the NFI against the Client regarding the Services delivered become immediately due and payable.

#### **Article 8: Force Majeure**

- 8.1 The NFI is not obliged to fulfil any of its obligations towards the Client if the delivery of its Services is hindered by a circumstance that is not caused by its fault and cannot be attributed to it by law, by a legal act or by generally accepted practice.
- 8.2 In these General Conditions, the term 'force majeure' means in any case all external causes that, upon entering the Agreement, were not foreseen by the NFI or cannot be influenced by the NFI, as a result of which the NFI cannot fulfil its obligations, such as floods, earthquakes, fire, lightning strike, failure of utilities services, actions by the authorities, legislative amendments, war, civil unrest, and strikes. The NFI also has the right to invoke force majeure if the circumstance obstructing the fulfilment of the Agreement, wholly or in part, commences after the NFI has had to fulfil its obligations.
- 8.3 The NFI may suspend its obligations under the Agreement during the period that the force majeure continues. If this period lasts longer than 2 (two) months – or if it is envisaged that this period will last longer than 2 (two) months – the Parties will hold consultations in order to find a suitable solution. If the force majeure lasts longer than 3 (three) months, each of the parties has the right to terminate the Agreement, without any obligation to pay damages to the other party.

#### **Article 9: Independent Relationship**

- 9.1 The NFI and the Client act as independent parties. The relationship ensuing from these General Conditions should not be regarded as a mandate or an agency. Neither party has the right to bind the other party on behalf of a third party.

#### **Article 10: Non-Assignment Clause**

10.1 Neither party is permitted to assign or otherwise transfer the Agreement or the rights and obligations ensuing from the Agreement to a third party without the other party's prior written consent, except to a legal successor as a result of a complete or partial business transfer, and subject to the condition that this legal successor is a party to which the NFI is permitted to deliver its Services pursuant to the Regulations of the Minister of Security and Justice of 8 May 2012, no. 227774 *containing provisions on the terms of reference/tasks of the Netherlands Forensic Institute (NFI Terms of Reference/Tasks Regulations)*.

#### **Article 11: No Waiver**

11.1 If the NFI fails to enforce any provisions of these General Conditions, this will not be interpreted as a waiver of NFI's right to enforce said provisions, and NFI's rights will not be affected by any delay in the enforcement of said provisions or the failure to do so. If the NFI waives its rights regarding the Client's failure to fulfil its obligations, this does not constitute a waiver with respect to all other, previous or later cases of non-fulfilment.

#### **Article 12: Nullity and Replacement Clause**

12.1 If any provision of these General Conditions is declared invalid or unenforceable (in a specific jurisdiction), this will not in any way affect the validity or enforceability of the other provisions and it will be separated from the other provisions. The Parties will replace the relevant provision that has been declared invalid or unenforceable by provisions that, as far as possible, retain the legal and economic purport of the original provision, with due observance of the Agreement in its entirety.

#### **Article 13: Compliance with Legislation and Regulations**

13.1 The NFI neither promises nor declares that the result of the Services will be in accordance with specific legislation or regulations, by-laws, orders, codes or standards, unless otherwise expressly agreed in the Agreement. The Client acknowledges that the application of the results may be subject to specific statutory requirements and/or limitations (in a specific jurisdiction) and it is responsible for ensuring compliance therewith in so far as relevant to the application of the result as envisaged by the Client. The Client is furthermore responsible for obtaining the required approvals, licences and/or permissions for the application envisaged and will bear the associated costs.

13.2 The NFI performs the Services to the best of its ability. Any information, advice and/or results provided by the NFI do not affect the fact that the Client is obliged to use its own expertise and judgment when applying that information, advice and/or those results.

#### **Article 14: Intellectual Property**

- 14.1 The intellectual property rights attached to the results of the examination and to the reports and advice drawn up by or on the instructions of the NFI are and continue to be held by the NFI.
- 14.2 Unless otherwise expressly agreed in writing, the Agreement does not grant any intellectual property rights to the Client.
- 14.3 The NFI has the right to use the knowledge developed in the execution of the Agreement for other purposes as well, including scientific research, provided that this is done without disclosing any strictly confidential information of the Client to third parties, and provided also that this is done with due observance of the applicable privacy legislation and regulations.
- 14.4 The NFI is and remains holder of the copyright to reports and other publications of the NFI that are drawn up or written by the NFI. Without the express prior written consent of the NFI, neither the Client nor any other party is permitted to reproduce the material.

#### **Article 15: Confidentiality**

- 15.1 The Client is obliged to maintain confidentiality regarding all information about NFI's business operations, its knowledge and know-how, that is disclosed to the Client in the performance of the Services, and of which the confidential nature is or ought to be known to the Client. The NFI undertakes to maintain confidentiality regarding all information which it receives from the Client in the context of the Services, and of which the confidential nature is or ought to be known to it, unless the NFI is obliged to disclose said information pursuant to the law or a court order. The NFI will keep the results of the Services secret for a period of 2 (two) years of invoice date, subject to NFI's right to apply for a patent (where applicable, also on the basis of other results).

#### **Article 16: Prohibition to Employ Staff**

- 16.1 Unless the NFI agrees in writing, the Client undertakes not to employ NFI employees who were directly involved in the performance of the Services within 2 (two) years after completion of the Services.

#### **Article 17: Prohibition on Bribery**

- 17.1 The Parties undertake not to offer each other or third parties, nor ask or accept from or be promised by each other or third parties, for themselves or any other party, any gift, remuneration, compensation or benefit – of whatever nature – that could be interpreted as an illegal practice. Such a practice may be a reason for terminating all or part of the Agreement.

### **Article 18: Safety**

18.1 If the Services are performed at a location designated by the Client, the Client will ensure that the circumstances under which the NFI employees and the third parties engaged by the NFI perform the Services comply with the safety rules applicable there. If the NFI is of the opinion that the circumstances and/or rules are inadequate, the Clients will then be obliged to take the additional measures as required by the NFI in order to guarantee the safety of the employees. If the NFI is of the opinion that the circumstances under which the NFI employee or the third party engaged by the NFI must work are inadequate and the Client is not willing or able to take additional adequate measures, the NFI has the right to suspend all or part of the Agreement or to terminate the Agreement in its entirety without being obliged to pay any damages. The Client is liable for all damage to the location, furniture, equipment, tools, and other facilities at this location.

### **Article 19: Complaints Procedure, Settlement of Disputes, and Applicable Law**

- 19.1 If the Client has a complaint about the performance of the Services, the Client must submit this complaint to the NFI through the website of the NFI and must follow the procedure described there ("**Complaints Procedure**").
- 19.2 Any disputes in connection with the execution of and/or ensuing from the Agreement, not based on a complaint or based on a complaint declared unfounded, will be solved initially by the Parties in consultation and to the best of their abilities.
- 19.3 The Parties will submit any disputes in connection with the execution of and/or ensuing from the Agreement or any further agreements deriving from it, expressly including the settlement of complaints in accordance with NFI's Complaints Procedure, exclusively to the competent court in The Hague, the Netherlands.
- 19.4 The Agreement between parties is exclusively governed by Dutch law.

These General Conditions are available in both Dutch and English. The Dutch text is binding with respect to any interpretation of these General Conditions.