



HOTZONE[®]
SOLUTIONS
group

Terms and Conditions

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Terms and Conditions

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1. Definitions

1.1 The following terms shall have the following meanings unless the context otherwise requires.

- **“Hotzone Solutions”** is contracted by the Client to provide their services.
- **“Hotzone Solutions Representative”**: The person directed by Hotzone Solutions to conduct the service(s). This person is not a legal representative and therefore is not authorized to sign documents on behalf of Hotzone Solutions.
- **“Client”**: The party who requests and instructs Hotzone Solutions to carry out the service (s).
- **“Services / Work”**: The services/work shall comprise the provision of all reports, materials, equipment consumables and all activity and work to be performed and advice, including or separately given support or instructions by qualified personnel together with the necessary equipment to perform work which is requested by the Client as detailed in the “scope of work” or purchase order, or other instruction from the Client which is accepted by Hotzone Solutions.
- These services will be at such times and locations as the Client directs.
- The services may consist of training, management system audits, risk assessments, (Technical, Safety and Risk Management), equipment’s provider, CBRNE solutions, Occupational Health and Safety Management, the placement of experts, Specialist Software Development and Data Management Applications etc.
- **“Services agreements”**: The Services are to be described in separate agreements, governed by these Standard Terms and Conditions if applicable and agreed upon by signature of the parties.
- **“Client Indemnified Parties”**: The owners and operators of any organization, unit or equipment to be inspected, audited and/ or evaluated by Hotzone Solutions, on behalf of the Client, as part of the Services, and their respective employees, agents and sub-contractors.
- **“High-risk projects”**: The projects that are considered and qualified by Hotzone Solutions, based on identifiable facts, to bear a more than usual level of risk involved, on financial or operational level, the safety of her personnel, or any other hazards that go beyond the normally acceptable level of risk in the operation or execution of projects.

2. Application of these Conditions

2.1 The terms and conditions set out herein shall apply to all proposals, offers and contract entered into by Hotzone Solutions. Unless a signed agreement is in place between the parties, these terms and conditions shall apply when Client agrees with the proposal provided by Hotzone Solutions to the Client. No work shall commence on the part of Hotzone Solutions if a signed agreement for proposal acceptance is not in place.

2.2 No modification or variation thereof shall be permitted or accepted or deemed to be permitted by Hotzone Solutions unless expressly agreed in writing by both parties.

2.3 All proposals made by Hotzone Solutions are valid for a period of 2 months after the date of issue if not otherwise stated in the proposal.

2.4 These terms and conditions are also applicable to any agreements with Hotzone Solutions in which third parties are subcontracted for the duration of the project as noted in the scope of work.

3. Limitations

3.1 Hotzone Solutions shall carry out such activities as is appropriate having regard to all relevant circumstances including in particular without prejudice to the foregoing generality of the instructions from the Clients, time constraints or availability of access to facilities, equipment, documentation, etc. which is deemed necessary to provide the Services and shall report to the Client as fully as reasonably practicable having regard to such circumstances.

3.2 In the absence of any express agreement to the contrary Hotzone Solutions shall give no guarantee that any organization on any unit or equipment is or shall continue for any period of time to be free from defects or fit for any particular purpose.

3.3 Any report issued by Hotzone Solutions, as part of the services/work, may contain explanations to the extent that Hotzone Solutions has, whether through lack of time or otherwise, been unable to inspect/evaluate certain parts of any organization, unit or equipment, or is unable without engaging specialist consultants to advise on any particular aspect or part of such organization, unit or equipment and without prejudice to any other provisions contained herein – Hotzone Solutions shall have no liability in respect of any matters regarding this work which could not be completed.

3.4 Any report issued by Hotzone Solutions as part of the services shall unless otherwise expressly agreed between the Client and Hotzone Solutions be for the benefit of the Client alone for the specific project involved and Hotzone Solutions shall not accept any liability for the content of such report provided to any other party.

4. Mutual Indemnities

4.1 Hotzone Solutions undertakes to indemnify and hold the Client and Client Indemnified Parties harmless from and against all claims, liabilities, costs, damages and expenses of whatsoever nature arising out of injury to or death of any employee, servant, agent, subcontractor or invitee of Hotzone Solutions and damage to or destruction of any property of Hotzone Solutions or any of its employees, servants, agents or invitees arising directly or indirectly as a result of the performance by Hotzone Solutions of the Services.

4.2 The Client undertakes to indemnify and hold Hotzone Solutions and its employees, servants, agents, sub-contractors and invitees harmless from and against all claims, liabilities, costs, damages and expenses of whatsoever nature arising out of injury to or death of any employee, servant, agent or invitee of the Client or any Client Indemnified Parties or damage to or destruction of any property of the Client or the Client's employees, servants, agents, sub-contractors or invitees or the Client Indemnified Parties arising directly or indirectly as a result of the performance by Hotzone Solutions of the Services irrespective of whether such injury, death, damage, or destruction, is caused in whole or in part by the negligence on the part of Hotzone Solutions or its employees, servants, agents, invitees or sub-contractors.

4.3 Notwithstanding the aforementioned, in the case of wilful misconduct or gross negligence of the Client or Hotzone Solutions (contract parties), or any of the Client Indemnified Parties resulting in such injury, death, damage or destruction, these parties will be held responsible and liable if so decided by arbitration or a court of law.

4.4 Notwithstanding anything to the contrary in this Agreement, the liabilities and obligations of the Parties under this clause shall survive the termination of this Agreement in respect of any claims arising during the term of the Agreement or thereafter.

4.5 Client Indemnified Parties include the owners of the equipment, facility or service to be inspected, even if the Services are provided prior to the Client being contractually engaged with the party being inspected, audited, etc.

5. Identification of High-Risk Projects

5.1 Hotzone Solutions clearly depends on the information provided by the Client for initial identification of High-risk projects. This information must be complete and sufficient to allow identification by Hotzone Solutions and her insurer. Should there be any doubt about the level of Risk involved; the Client must alert Hotzone Solutions Management of the details, thereby allowing Hotzone Solutions to make a decision as to the safety of her personnel.

5.2 In all cases the Client is responsible for their management decisions taken after receipt of the Hotzone Solutions findings and or report and for overall liability.

6. Performance

6.1 All commitments with respect to the timing and scope of a project agreed between the Client and Hotzone Solutions are to be confirmed in writing.

6.2 These agreements are made in good faith and will be executed with the best effort but are made necessarily in advance of knowing the full scope of the difficulty that may pertain to performance on specific points. For this reason, whilst Hotzone Solutions agrees to use its best endeavor to fulfill such commitments to Clients on the timing and the scope of work, Hotzone Solutions cannot guarantee performance in either respect (see article 13).

- 6.3 Hotzone Solutions reserves the right to decide whether or not to conduct, begin or continue with a project after evaluating all risks regarding the health, safety and security of her representative.
- 6.4 Changes to the scope of work or services must be made in writing to Hotzone Solutions Management and not with the latter's representative on site. Where the services include the writing of a report, the report shall be issued in a maximum of one hard copy (if so requested), and one soft copy (PDF) and in English.
- 7. Confidentiality**
- 7.1 Hotzone Solutions agrees to hold all information provided by the Client as confidential where the Client so specifies, unless:
- Such information is known to Hotzone Solutions prior the start-up of the project, or,
 - is in the public domain or,
 - is about to be released into the public domain or,
 - Hotzone Solutions is being given the same information by a third party or,
 - Is released from its confidentiality requirement by the Client or,
 - The Client is found in breach of contract with Hotzone Solutions by a court of law (including non-payment of account) or,
 - Three years have elapsed or whichever comes first.
- 7.2 The Client agrees to hold confidential all information about Hotzone Solutions proposal (s), fee structures, fees and personnel, Hotzone Solutions proprietary information, data tools and software where applicable.
- 7.3 Hotzone Solutions agrees to handle any materials, such as software programs or documents, supplied by the Client to Hotzone Solutions, in a responsible manner and return them to the Client upon request or completion of the project. However, Hotzone Solutions will not be responsible for any wear or tear occasioned nor for any loss or theft that might occur. All such material is supplied at the Client's own risk and no liability for any financial restitution for any direct or indirect value is accepted by Hotzone Solutions.
- 8. Obligations of the Client**
- 8.1 Client shall ensure that any information provided, in any form, which is necessary for the performance of the services by Hotzone Solutions is true and accurate and Client shall be solely responsible for the contents therein.
- 8.2 The Client is to inform equipment and facility owners and/or Management that:
- a. Hotzone Solutions is not responsible for any breakdown and malfunctioning of their equipment or facility during or after the service.
 - b. They will be entitled to refuse any inspections or tests if they have valid reason to believe that the test may endanger the safety of the equipment, the facility, the personnel, the surrounding environment or the on-going operation for another party.
- 8.3 The Client shall ensure that all operations and activities are in agreement with local or international regulations and laws and that they act in compliance with these laws and regulations in all areas of health, environment, safety, security, taxes, privacy, etc.
- 8.4 Should the Client solicit a Hotzone Solutions employee and or representative and the individual accepts the employment period of twelve month after the project, then Client shall pay Hotzone Solutions a finder's fee in the amount of three months' salary or consultancy fee of said individual. All personnel have a competition clause in their employment contract.
- 8.5 The Client is liable for the security of Hotzone Solutions staff travelling to and from the facility upon their entering the country, if Hotzone Solutions employee or representative is not a resident of that country. All possible reasonable precautions are to be taken by the Client to safeguard Hotzone Solutions representative in the same manner as the Client personnel are afforded.

9. Consequential loss

9.1 Hotzone Solutions shall not be liable to the Client or Client indemnified Parties and the Client and the Client indemnified Parties shall not be liable to Hotzone Solutions in respect of any claims for loss of production, loss of product, loss of use and loss of revenue, profit or anticipated profits, loss of business or any other indirect losses or consequential damages arising as a result of the performance by Hotzone Solutions of the services regardless of the cause thereof including but not limited to the negligence of the party seeking to rely on this provision. Notwithstanding any provisions to the contrary elsewhere in the agreement, the Client shall indemnify and hold Hotzone Solutions harmless from and against any such claims against Hotzone Solutions brought by the Client group and or Client indemnified Parties regardless of the cause, even if such damages are caused by the fault or negligence of the other signatory and/or such other's personnel.

10. Right of Ownership

10.1 Hotzone Solutions warrant that all personnel and subcontractors will be employed on terms that protect the Client's intellectual property rights for as far as these materials are made known or given in custody to Hotzone Solutions.

10.2 Notwithstanding any payments received from the Client, all rights of ownership to all materials prepared by Hotzone Solutions, whether written or not, shall remain the property of Hotzone Solutions copyright and distribution rights are reserved by Hotzone Solutions at its sole discretion, except where these rights are explicitly stated in writing to have been waived or where the contract between Hotzone Solutions and the Client explicitly so provides or where The material is so endorsed by Hotzone Solutions.

10.3 Hotzone Solutions however grants the right, without prejudice to its position under the previous paragraph, to the Client to copy freely any reports and or documentation in hard or soft copy provided by Hotzone Solutions as part of work wholly commissioned by the Client provided that distribution of these copies is exclusively within the Client's particular organization or project and accepts the report's findings are only applicable for the project commissioned by the Client.

10.4 This clause shall apply to all reports, including the final Client report, and all presentation materials. It shall also apply to any audio, photographs or videotaping of any presentation made by Hotzone Solutions for the Client. This **does not** apply to training materials that might be used by Hotzone Solutions to support its training syllabus, as these **may not be copied** in any form.

10.5 The right to distribute copies of Hotzone Solutions material internally within the Client's organization does not extend to multi-client and off-the-shelf market research report and software that have been purchased from Hotzone Solutions. Additional copies of such items for internal distribution are available, at the time of purchase or later.

10.6 The Client's interests in respect of this clause and any materials provided by the Client to Hotzone Solutions are protected by Hotzone Solutions' blanket confidentiality commitment in respect of the dissemination of any and all materials related specifically to the Client's affairs.

11. Expenses

11.1 Hotzone Solutions's proposals and/or contracts with Clients stipulate whether they are "fixed price" (i.e. lump sum, all expenses will be included within the pre-negotiated fee) or "rates plus expenses" in which case expenses are levied in addition to the agreed rates. This section provides clarification of our standard policy on what expenses will be claimed and how.

11.2 The agreed rates apply to all working days, standby days, travel days and report costs. The rates are net and excluding BTW/GST/VAT, withholding taxes or local taxes. Should the Client be required to withhold local taxes from the invoice amount, then the client has the responsibility to inform Hotzone Solutions and it will be necessary to increase the rates accordingly.

11.3 Applicable expenses are charged to the client at the gross invoice value. Expenses will be charged inclusive of any sales taxes (or similar fiscal levies) where these are payable by Hotzone Solutions, whether or not Hotzone Solutions may be able to subsequently reclaim any part of these.

11.4 VAT (and any other relevant tax) will be added to the invoice amount in line with applicable government legislation at the rate ruling at the time of invoice.

- 11.5 If the commencing date of agreed service, which has been confirmed/ agreed by the Client, is delayed after the Hotzone Solutions personnel have departed their place of residence to the nearest Hotzone Solutions office or to the dedicated job site and prior to commencing the Client's Services, then a Standby Rate per day per person will be charged to the Client to cover expenses until demobilized as per Client instructions. If the Hotzone Solutions personnel are standby at the project, then the full day rate is applicable.
- 11.6 Invoices will normally be presented on a monthly basis or after completion of the Service.
- 11.7 Hotzone Solutions may, at its sole discretion, choose to present invoices more frequently, to reflect the level of expense accumulating.
- 11.8 When applicable and possible, for work conducted in the same area for another client by a Hotzone Solutions representative, the visa costs and travel costs will be shared.
- 11.9 Hotzone Solutions is hereby authorized to incur, without prior notice to the Client, 'reasonable' travel expenses (as outlined below) in performing the Client's instructions. The Client agrees to reimburse these at cost plus 10% handling fee.
- a. Hotzone Solutions uses a professional visa service, however, if travelling is required by Hotzone Solutions personnel to obtain an entry visa for the country where the work will be conducted, then these days will be charged according to the working day rate and expenses will be charged.
 - b. All travel expenses of the Hotzone Solutions representative(s) from their home to the job site, on-the-job and return to home, for transportation and all other reasonable expenses including rental car or mileage costs are to be paid by the Client.
 - c. 'Reasonable' travel expenses are those generally applied within international corporations for their senior executives. These vary to reflect the different standards applied to business travel in various parts of the world. For illustrative purposes, this includes, Business Class international air travel and Economy (or 'coach') class domestic flights; accommodation, lodging, and incidental costs within a hotel suitable for international business affairs, all meals whilst acting on behalf of the Client within a hotel's restaurant or an equivalent grade of individual remises, 1st class rail travel, taxis and car-hire costs for a mid-size or executive size vehicle as appropriate. Where appropriate to the circumstances, Hotzone Solutions reserves the right to vary the class of travel to meet the business needs. Where travel time by airplane is longer than 9 hours (direct flight), business class will be used except in the case where Client's travel policy dictates otherwise.
 - d. All expenses are payable for the total activity time (as defined above): i.e. including travel to and from the Client's premises or work location. Expenses incurred in foreign currency will be billed at the actual exchange rate of the date of invoicing.
 - e. Hotzone Solutions representatives are required to obtain receipt for expenses wherever practical, copies are included with the invoice unless a per diem is agreed.

12. Payment terms

- 12.1 The Client agrees to be bound by the payment terms stipulated in the proposal/purchase order/contract. In the absence of any other agreed payment terms, all invoices shall be payable in full within 30 days of the date of the invoice. If payments have not been received within 30 days of the date of the invoice, one percent (2%) interest will be due over the full amount of the invoice for every month or part of a month that the invoice payment is delayed thereafter.
- 12.2 4.5 If the customer, after notification, continues to be negligent for the payment due, the claim shall be transferred for collection. All costs incurred in the collection of invoiced amounts (including extrajudicial collection costs) shall be borne by the customer in accordance with the Collection Costs Act, unless there is a trade agreement referred to in Article 6: 119a paragraph 1 of the Civil Code. In the latter case, the customer is entitled to a reimbursement of costs for the payment of compensation out of court immediately after the expiration date of the invoice of 15% of the due, and at least € 75.00, before a notice has been sent.

Report, if applicable, will be dispatched to Client only after a service order or contract number is verified and the proforma invoice is approved.

12.3 If the Client fails to make any progress payment without giving notification of due cause, then Hotzone Solutions will withhold delivery of any final reports and/or any other strategic documents and will not be responsible for any inconvenience, loss or damages so caused.

12.4 The currency of payment will be stipulated in the Client proposal/contract. Both parties agree to accept this in respect of all invoices and payments.

12.5 Unless otherwise explicitly provided by an individual contract, no account will be taken of any exchange rate fluctuations during the contract's life. Each party accepts as their own responsibility the variation, whether favourable or unfavourable.

12.6 The Client's responsibility is for payment to Hotzone Solutions of the full amount agreed.
The Client agrees to adjust all payments to take into account any charges levied (such as may be made by the transferring bank), so that the full invoice amount is to be received by Hotzone Solutions. The Client accepts that Hotzone Solutions shall be entitled to recover all deducted amounts.

12.7 The Client agrees to make payment by telegraphic transfer to the bank location stipulated on the invoice. Hotzone Solutions shall be entitled to recover any costs caused by any Client variations to this amount not agreed in advance.

12.8 The Client agrees to pay all government taxes and duties, regardless of origin, that may apply to all payments to Hotzone Solutions; if Client and Hotzone Solutions are residing in different countries. Each party will be responsible for recovering their own entitlements in respect to pr-payments (for example in respect of VAT or sales tax).

12.9 Hotzone Solutions shall have the right to suspend all work on behalf of the Client should payments not be made on time with the agreed schedule. Any adverse impact that this suspension has upon the completion schedule or the quality of the service for the Client shall be at the Client's sole responsibility. This right applies not only to the contract in arrears but also to any other contracts with the Client, whether or not payments against these contracts are in arrears.

In particular, Client should note that where it has been agreed that payment of all or part of a project is to be made "in advance", work would not commence on the Client's behalf until payment is actually received.

13. Liability for Advice Provided and Services Performed

13.1 Hotzone Solutions provides a wide range of technical services, information, advice, reports and other services in good faith and to its best effort, based upon available information and findings at the time. Hotzone Solutions shall carry out all its obligations under the contract and shall execute the services with all due care and diligence and confirm that Hotzone Solutions personnel are properly trained, qualified, skilled and experienced to provide the services. The services shall be fit for purpose and specified in the scope of work. Hotzone Solutions does not guarantee that the services are without error, that they will achieve a given result, that they meet the demands of the Client, or that they are appropriate for the purpose envisioned by the Client.

13.2 Hotzone Solutions does not warrant the accuracy of information provided in reports or services or supporting materials but Hotzone Solutions uses its best endeavours to perform. It is for the Client to decide whether or not to accept the advice when making any management decisions or taking further actions. Hotzone Solutions never accepts liability for the consequences of a Client's decision based on this information, opinion and advice; whether direct or indirect.

14. Publicity

14.1 Hotzone Solutions may with the permission of the Client publicise the fact that the Client is, or was, a Client and to utilise the Client's name in publicity materials in this respect. Hotzone Solutions may also describe in general terms the type of work conducted for the Client.

14.2 Where the results of any commissioned work are cited by the Client, the Client agrees to make due and honourable reference to Hotzone Solutions, so as to make it clear who carried out the work, except where Hotzone Solutions explicitly waives this right. This provision is notwithstanding the over-riding position over ownership of said product. (see article 10.2).

15. Complaints

15.1 Any complaints about the behaviour of employees and/or representative, quality of services, reports or any other activity of Hotzone Solutions must be filed in writing to Hotzone Solutions preferably within one week following the occurrence of the incident. Hotzone Solutions in turn will address this matter as per the Hotzone Solutions company policy. The complaint will not suspend any activity or applicability of any obligation of the parties.

16. End of Contract and Obligations, Insolvency

16.1 Any contract obligations between Hotzone Solutions and Client will be seriously reviewed and adjusted in the situation of articles 16.2 and or 16.3.

16.2 Hotzone Solutions will have the right to suspend or end its ongoing services or activities immediately when invoices are outstanding from the Client not suspending any right that Hotzone Solutions will be entitled to recover in full all fees and expenses.

16.3 Hotzone Solutions shall have the right to discontinue immediately all work for the Client should; the Client petition for bankruptcy, or be declared insolvent, or be placed into administrative receivership or be generally unable to pay their bills as they become due.

16.4 In the above circumstances Hotzone Solutions will also be entitled to have a general lien on all goods and property of the Client that is within Hotzone Solutions possession and following 14 days' notice to dispose of such goods and property in such manner and at such prices as Hotzone Solutions deems fit and to apply these proceeds towards such debts as may be outstanding from Client to Hotzone Solutions.

17. Illegal Activities

17.1 Hotzone Solutions will not carry out any illegal activities on behalf of the Client. Any requirement in this respect will nullify the contract or any agreement in respect of performance and Hotzone Solutions will be entitled to recover in full its fee and expenses.

17.2 The Client agrees not to make any illegal use of any information provided by Hotzone Solutions.

18. Limitation of Liability

18.1 Without prejudice to other more restrictive imitations elsewhere in the contract, liability on the part of Hotzone Solutions is limited to the value of the service with the Client or the value of the loss whichever is the smaller, and up to a maximum of the insurance cover in effect.

18.2 Hotzone Solutions carries a general liability insurance.

19. Force Majeure

19.1 Force majeure means in respect of either party, any event or occurrence whatsoever beyond the reasonable control of that Party, which delays, prevents or hinders that Party from performing any obligation imposed upon that Party under this contract, including to the extent such event or occurrence shall delay, prevent or hinder such Party from performing such obligation, Acts of God, labour disputes, health protection measures, social unrest, acts of terrorism, security measures upon these acts, war, fire, epidemics, explosions, blockades or unforeseeable official governmental measures and other unavoidable and unforeseeable events or change of circumstances (see article 6.2).

19.2 Where the delay caused by third party events outside either party's control or influence causes such delay or damage that the purpose of the contract is wholly or significantly destroyed, either party shall be entitled in these circumstances to cancel the remaining portion of the project. In such circumstances Hotzone Solutions, will be entitled to recover any costs already incurred.

20. Jurisdiction, Law of the Contract

20.1 If not mutually decided otherwise, any contract between Hotzone Solutions and the Client relating to the provision of services shall be governed by and constructed according to the Laws of The Netherlands. The court in Rotterdam has exclusive jurisdiction to take knowledge of disputes between Client and Hotzone Solutions, unless the law mandatory dictates otherwise.

20.2 These terms and conditions are drawn up in the English language, should they be translated to another language, the original English version shall prevail in case of disputes or differences.