

GENERAL TERMS AND CONDITIONS OF FUMICO

1. Definitions; scope

1.1. These general terms and conditions use the following definitions:

Fumico: The company with limited liability that declares these general terms and conditions applicable is **Fumico Fumigations B.V.**, Chamber of Commerce number 68720106, with its registered office in Enschede or **Fumico Bio & QPS Services B.V.**, Chamber of Commerce number 66813670, with its registered office in Rotterdam.

These general terms and conditions of delivery also apply to companies affiliated with Fumico and/or its affiliates in the future.

Client: Any natural or legal entity who/which purchased services or products from Fumico, or with whom/which Fumico is conducting negotiations on the conclusion of an Agreement.

Agreement: Each agreement between the Client and Fumico.

Quotation: Each non-binding indication of Fumico under which conditions it would potentially be willing to accept a contract.

1.2. The Dutch text will prevail in case of conflicts between the Dutch text of these general terms and conditions and its text in another language.

2. Applicability of these general terms and conditions

2.1. These general terms and conditions apply to each Quotation and to each Agreement between Fumico and the Client, and to all Agreements that arise from these, insofar as the parties have not expressly deviated from them in writing.

2.2 These general terms and conditions also apply to all Agreements between Fumico and the Client, for the implementation of which Fumico third parties are engaged. The general terms and conditions of the Client are hereby explicitly rejected.

2.3. If any provision of these general terms and conditions or the underlying Agreement is found to be fully or partially void and/or invalid and/or unenforceable as a result of any statutory regulation, court order, or otherwise, this will not affect the validity of all other provisions of these general terms and conditions or the underlying Agreement.

2.4. In case of conflicts between these general terms and conditions and a provision of the Agreement, the provision of the Agreement will prevail.

3. Quotations

- 3.1. Quotations submitted by Fumico are completely non-binding, even if they specify a specific period, the Client cannot derive any rights from them.
- 3.2. All prices indicated in a Quotation and an Agreement are in Euro and do not include VAT, unless explicitly indicated otherwise. The prices do not include government levies or freight, storage, and security costs, unless indicated otherwise.
- 3.3. The Client will complete and return the quotation form if it wishes to accept a Quotation. The Agreement with Fumico will only be concluded with binding effect once Fumico has confirmed the contract granted by the Client in writing, or, in the absence thereof, once Fumico starts with the implementation of the Agreement. Until that time, the Client cannot derive any rights from the completed and returned quotation form.
- 3.4. Additions to or deviations from a Quotation will only be binding once they have been explicitly confirmed in writing by Fumico.
- 3.5. Fumico will always have the right to deviate from the content of catalogues, brochures, technical specifications, price lists, and the like, unless everything has been explicitly set out in an Agreement.

4. Obligations of the Client

- 4.1. If Fumico performs work at a location designated by the Client, the following provisions will apply:
- a. The Client will make time and a location available to employees of Fumico upon the first request to this end.
 - b. The Client will grant the employees of Fumico access to the location in question and to any other premises which access Fumico considers necessary or useful for the performance of its work.
 - c. The Client will ensure that the location, or parts thereof, where instruments or equipment must be assembled and/or placed, such at the discretion of Fumico, are accessible and available.
 - d. The Client will provide the employees of Fumico with a sound and safe ladder and/or other sound and safe equipment if Fumico considers this necessary or useful for the performance of its work. The Client will specifically provide the employees of Fumico with specialized equipment needed to work in a sensitive environment and/or location with limited accessibility.
 - e. The Client will ensure that electricity facilities in accordance with the instructions given by Fumico are available at the locations designated by Fumico.
 - f. The Client will closely and timely observe the instructions given by Fumico in the context of the implementation of the Agreement.

g. Fumico will always have the right to inspect the location involved. If and insofar as necessary, the Client will give Fumico the opportunity to do so at its first request.

h. The Client will be responsible for the safety of the location involved and the safety of the work environment of the Fumico employees.

4.2. If Fumico implements the Agreement at one of its own locations, the Client must closely observe the specific instructions given by Fumico. The Client will be informed of these specific instructions by Fumico, including through the content of the special BMSB conditions, which also apply to the Agreement.

4.3. If the Client has to make goods available to Fumico as part of the Agreement, the Client is obliged to make these goods available in proper packaging at the agreed place, time and in the agreed manner. The Client is also obliged to provide Fumico with all documents and information concerning these goods in good time, of which the Client knows or ought to know that these are important to Fumico.

4.4. The Client ensures that all data that Fumico indicates is necessary or which the Client should reasonably understand to be necessary for the execution of the Agreement, are fully, timely (and in no case later than 48 hours before the start of Fumico's work) and correctly provided to Fumico. In particular the Client informs Fumico in advance about (1) the goods to be treated and/or location (including but not limited to the size, origin, condition and nature of the plague and the history of previous treatments), (2) the technical specifications of the location where the services are to be performed and (3) the to the Client known (both current and potential) risks and dangers associated with the assignment, including for example the presence or risk of radiation, toxic, harmful or explosive elements or materials, environmental pollutants or poisons.

4.5. The Client will ensure that it is always in the possession of a sufficiently up-to-date automation system to be able to receive, read and/or process any information, correspondence, invoices, and the like sent by Fumico by digital means.

4.6. If the Client fails to comply with all obligations pursuant to the Agreement and/or these general terms and conditions, Fumico will have the right to suspend the implementation of the Agreement until the Client has fully met its obligations pursuant to the Agreement. This is without prejudice to the payment obligation of the Client vis-à-vis Fumico.

5. Equipment of Fumico

5.1. All assets of Fumico placed at the location of the Client or used at its own location in the context of the Agreement are and remain the property of Fumico, unless these have explicitly been sold to the Client in the Agreement and the delivery and payment of the full purchase price have taken place.

5.2. Except in case of intent or gross negligence attributable to Fumico herself (that is to her management), the Client will be liable for loss of and damage to assets of Fumico located in/near the location of the Client.

5.3. The Client is required to (continuously) insure the assets Fumico has placed at the location of the Client in the context of the Agreement against the usual risks, as well as pay any premiums and other expenses due on time.

6. Force majeure

6.1. In addition to the provisions of Section 6:75 of the Dutch Civil Code, a situation of force majeure will exist in case of all external causes, foreseen or unforeseen, over which Fumico cannot exert any control, but due to which Fumico is unable to fulfil its obligations arising from the Agreement (without shortcomings) partly or in full, including but not limited to war, mobilisation, rebellion, attachment, burglary, a complete lack of transport equipment, a complete lack of raw materials, transport restrictions, labour market disruptions, computer viruses, electrical faults, government instructions, government measures, extraordinary weather conditions, natural disasters, fire, as well as strikes at the company of Fumico.

6.2. If and for as long as a situation of force majeure exists, a shortcoming in the fulfilment of an obligation of Fumico will not be attributable to it. In case of such shortcoming, the obligations of Fumico will be suspended without it being held to pay any form of compensation to the Client. If the period in which fulfilment of Fumico's obligations is not possible due to force majeure lasts longer than 60 days, both parties are entitled to terminate the Agreement with immediate effect by means of a written cancellation

6.3. Fumico also has the right to invoke force majeure if the circumstances that prevent the (continued) fulfilment occur after Fumico should have fulfilled its obligation(s).

6.4. Fumico does not owe the Client or any third party any (damage) compensation in a force majeure situation, also not if it enjoys any benefit as a result of the force majeure situation. All additional costs caused by the force majeure, such as, for example, but not limited to, transport costs, storage costs, rental fees or standing charges, shall be borne by the Client and must be paid to Fumico at Fumico's first request.

7. Shortcomings; complaint period, prescription and limitation

7.1. The Client is required to inspect any services provided by Fumico immediately after they have been completed, and to immediately report any complaints to Fumico in writing. Any delivered goods must be inspected by the Client immediately upon delivery, and any discovered complaints must immediately be reported to Fumico in writing.

7.2. Complaints about work performed, services provided and/or goods delivered by Fumico which could not be discovered immediately after the completion of the services or the delivery of the goods, including damage discovered by the Client, must be reported to Fumico in writing immediately after their discovery, but at the latest within 5 days of the discovery, but no later than within 14 days after completion or termination of the work in question or the delivery of the goods.

7.3. If and insofar as the Client has not reported a complaint to Fumico in writing within the periods specified in Article 7.1 and 7.2, all rights of the Client related to this complaint will expire by operation of law. Fumico is not required to accept any complaints submitted after the periods specified in this article 7, and these will not lead to the liability of Fumico. However, if Fumico decides to accept these complaints, these efforts will be considered gratuity without acceptance of any liability, unless agreed otherwise. If it becomes clear that a complaint is unfounded, and Fumico has performed work or delivered goods in this context, Fumico has the right to charge this to the Client at her normal rates.

7.4. If Fumico believes that a complaint is founded, such at its exclusive discretion, and Fumico has received this complaint on time in accordance with this Article 7, Fumico will carry out the work as agreed or ensure the correct delivery of the goods, unless fulfilment has become demonstrably impossible or useless. The Client must be able to demonstrate the existence of this last situation and inform Fumico of this in writing.

7.5. If proper fulfilment of the Agreement is no longer possible and the complaint of the Client is founded, Fumico will only be liable within the limits set out in Article 8.

7.6. Without prejudice to Articles 7.1 to 7.5, any claim of the Client against Fumico shall be prescribed by nine (9) months.

7.7. Any claim of the Client against Fumico shall be forfeited by the mere lapse of twelve (12) months.

7.8. The periods in Articles 7.6 and 7.7 commence on the day following the day on which the claim arose or the day following the day on which the Client became aware of the damage. Without prejudice to the aforementioned provisions, the aforementioned periods for claims relating to damage, decrease in value or loss of goods shall commence on the day following the day on which the goods were delivered or should have been delivered by Fumico.

8. Liability of Fumico

8.1. Fumico will only accept a best-efforts obligation vis-à-vis the Client in the context of the Agreement. All (delivery) times mentioned by Fumico are not fatal terms and are not guaranteed by Fumico, unless otherwise agreed in writing.

8.2 Fumico is not liable for any damage suffered by the Client or a third party in connection with or arising from the Agreement concluded with Fumico or in connection with or arising from (unlawful) actions by Fumico and / or employees of Fumico and / or independent assistants of Fumico. This exclusion of liability does not apply if the damage suffered by the Client or third parties is directly and exclusively the result of intent, gross negligence, or deliberate recklessness attributable to Fumico itself (id est to its management).

8.3 Insofar as it is established in court that the limitation of liability described in Article 8.2 cannot be maintained, the amount to be paid by the Fumico as compensation will never exceed the amount paid by the insurer of Fumico for the damage claim. If the insurer does not grant coverage or refuses to provide payment while Fumico is liable, the liability of Fumico is limited to the (part of the) invoice amount to which the liability relates with a maximum of EUR 10,000 (in words: ten thousand Euros). Fumico shall never be liable for claims of less than EUR 500.

8.4 Except in cases of intent or gross negligence fault of Fumico itself (id est of its management), Fumico is not liable for:

- indirect damage including loss of income or profits, intangible loss, consequential damage, damage due to delay (for example in business activities) and due to business interruption, damage due to loss of production capacity, loss of working hours and/or labour costs incurred in vain. If desired, the Client must take out insurance to cover these forms of damage itself;

- any damage caused by insects or rodents, micro-organisms, chemicals, toxic substances and/or allergens;
- damage caused directly or indirectly by fire, if this fire is caused by or can be related to faulty fire protection facilities, or if the Client has provided Fumico with incomplete and/or incorrect information about the condition of the object which is the subject of the work;
- the consequences of any failure of the Client to (properly) comply with any obligation to apply for and be in the possession of permits or similar documentation related to work to be carried out by Fumico, including permits / documentation in the field of fire prevention and food processing;
- costs, (administrative) fines, penalties, or other sanctions that can be imposed on the Client after an inspection or an incident;
- costs charged to the Client for inspections that are conducted as imposed by the government based on, inter alia, applicable environmental legislation;
- damage caused by a failure to meet a period for completion of certain work to be performed by Fumico;

8.5. The Client is required to take measures to mitigate damage. Fumico has the right to recover or limit the damage by repairing or improving the work performed.

8.6 The Client is responsible for verifying the resilience of its goods against the (gaseous) pesticides used by Fumico. Fumico is not liable for damage to the cargo (of any kind) potentially caused by (gaseous) pesticides and the use thereof by Fumico.

8.7 Fumico cannot guarantee that its treatment will result in (full) extermination. Fumico is not liable if goods / cargo are rejected somewhere in the chain.

8.8 In line with article 12.1 Fumico is not responsible for any costs charged by the export terminals or shipping companies.

8.9 The Client indemnifies Fumico against any claims of third parties concerning damage occurred because of or in relation to goods delivered and/or work performed by Fumico.

8.10 Any terminal operators engaged by Fumico may also invoke the jurisdiction and liability limitations agreed between Fumico and the Client against the Client.

9. Intellectual property

9.1. All intellectual property rights that arise in the context of the implementation of the Agreement, including but not limited to the copyright on all reports, recommendations, and designs created by Fumico, are vested with Fumico.

9.2. The Client is expressly not allowed to copy, disclose, or exploit the products on which intellectual property rights Fumico are vested, or products on which intellectual property rights are vested in relation to the use of which Fumico has acquired the usage rights.

9.3. If and insofar as the creation of an intellectual property right concerning an invention or discovery in the context of the Agreement, or a model or design created in this context, requires registration, the Client will fully cooperate with this at the first request of Fumico.

9.4. If any intellectual property right created in the context of the implementation of the Agreement accrues to the Client by operation of law, the Client will at the first request of Fumico cooperate with the transfer of this intellectual property right to Fumico.

9.5. All written documents provided to the Client by Fumico are exclusively intended to be used by Fumico and the Client. The Client may not copy, disclose, or share them with third parties without the prior written permission of Fumico.

10. Health and safety

10.1. The Client must ensure that all recommendations and instructions given by Fumico concerning the protection of the health and safety of everyone at the premises of the Client are observed.

10.2 The Client must inform Fumico of all hazards it may encounter when working at the premises of the Client.

11. Confidentiality

11.1. Fumico and the Client mutually undertake to observe the confidentiality of all confidential information they obtain from each other or from another source in the context of the Agreement, unless the parties must disclose this information based on or pursuant to any act or measure by a government body.

11.2. Information will be considered confidential if the other party has designated it as such and/or if this can be reasonably assumed based on the nature of the information.

11.3. The following information will not be considered confidential:

- information which is already public knowledge;
- information derived independently from provided information by the parties themselves;
- information which the parties have received from third parties.

12. Fees, payment

12.1. The Quotation by Fumico and the invoice do not include the costs of third parties, including, but not exclusively, the costs for any permits, freight charges, port charges, customs duties, fines and import duties. The Client must pay these costs to the third parties involved directly. If Fumico is charged with costs by a third party in connection with the Agreement, the Client shall reimburse Fumico for such costs, as well as related penalties.

12.2. If any (purchase) prices due and/or costs and/or salaries paid by Fumico are increased after the conclusion of the Agreement, Fumico will have the right to change the agreed price based on this increase.

12.3. In the event of insufficient loading and/or unloading time, all resulting costs, such as, but not

limited to, demurrage and waiting costs, shall be borne by the Client, unless there is intent or deliberate recklessness on the part of Fumico.

12.4. The Client must always pay invoices of Fumico within fourteen (14) days of the invoice date by transfer to the bank account of Fumico.

12.5. The Client is obliged to provide security for what the Client owes or will owe to Fumico at Fumico's first request. All consequences of not immediately complying with Fumico's request for security shall be for the account and risk of the Client.

12.6. If in order to determine the amount due a calculation is required that cannot be carried out quickly, the Client is obliged to pay the part for which there is clarity immediately and to provide security for payment of the part for which the amount has not yet been determined.

12.7. The Client does not have the right to settle or suspend the payment of invoices of Fumico.

12.8. The Client will immediately be in default without notice being required in case of late payment. The payment period of 14 days is a deadline. If the Client is in default, the Client cannot demand delivery of Products or the performance of services by Fumico.

12.9. From the moment the Client is in default until the moment Fumico has received full payment, the Client will owe an interest of 1% per month, in which respect part of a month will be considered a full month, unless the statutory commercial interest is higher, in which case the statutory commercial interest will apply.

12.10. Payments made by the Client will first be used to settle the owed cost and interest (in this order), and then to settle the oldest pending invoices, even if the Client indicates that the payment concerns a different or later (invoice) claim.

12.11. If the Client is in default with respect to the fulfilment of its payment obligations, all costs incurred by Fumico as a result of judicial and/or extrajudicial collection of claims will be for the account of the Client. The extrajudicial collection costs will amount to at least 15% of the due amount of the invoices with a minimum of EUR 100. If the actual extrajudicial collection costs incurred exceed 15% of the outstanding amount of invoices, such costs shall, in line with the first sentence of this article, be borne in full by the Client.

13. Amendments to the Agreement

13.1. If it becomes clear that the work to be performed must be amended or supplemented to ensure its proper implementation, the parties will amend the Agreement in proper consultation.

13.2. Amendments to the Agreement may result in a new completion date of the work. Fumico will inform the Client of this as soon as possible. Financial consequences of amendments to the Agreement will also be discussed, in which respect Fumico may charge any additional costs arising from the amendment to the Agreement to the Client.

13.3. Fumico will always have the right to unilaterally amend these general terms and conditions. Fumico will inform the Client in writing if these general terms and conditions are amended.

14. Termination and suspension

14.1. If one of the following circumstances occurs, Fumico is authorized to suspend the (further) fulfilment of the Agreement and/ or terminate the Agreement, without prejudice to its authority to claim compensation from the Client. This is the case if:

- seizure is made on the Client's property, or the Client is granted a suspension of payment, or the Client has been declared bankrupt or a debt restructuring becomes pronounced regarding the Client;
- Client fails in one or more of its obligations towards Fumico;
- Fumico has good reason to fear that the Client will not be able to meet its obligations under the Agreement, and the Client in the reasonable opinion of Fumico does not provide sufficient security for the fulfilment of its obligations.

14.2. If one of the circumstances referred to in the previous paragraph occurs, Fumico is authorized to determine that all that it has to claim from the Client immediately will be due and payable.

14.3. If unforeseen circumstances arise, for example with regard to persons and / or material which Fumico uses by the implementation of the Agreement or tends to use by the implementation of the Agreement, which are of such nature that the implementation of the Agreement becomes impossible or so objectionable and / or disproportionately expensive that compliance with the Agreement can no longer reasonably be expected of Fumico, Fumico is entitled to cancel the Agreement, without being obliged to pay any compensation to the Client or a third Party.

14.4. In the event of termination of the Agreement, at least the already performed services by Fumico will be reimbursed by the Client. This provision leaves without prejudice all Fumico's other rights.

15. Processing of personal data

15.1. By using the services of Fumico, the client agrees that Fumico processes (personal) data of the client, its employees and/or its representatives in accordance with the General Data Protection Regulation. The client agrees to the inclusion of the (personal or company) data of the client, its employees and/or its representatives in Fumico's digital and administrative systems.

15.2. Fumico's privacy statement can be consulted at:

<https://fumico.nl/fumico-algemeen/privacy Statement/>

16. Applicable law and competent court

16.1. All Agreements between Fumico and a Client, and all agreements that arise from these, are governed by the laws of the Netherlands, to the exclusion of the Vienna Sales Convention.

16.2. All disputes arising from (the implementation of) the Agreement, or any associated agreements and legal relationships, will be settled by the Court of Almelo.