

## 1. GENERAL

- 1.1. These General Terms and Conditions (hereinafter “Terms”) apply to each offer, quotation or agreement between

EMS 247 Limited in Hong Kong (# 2809286) (hereinafter referred to as “EMS”), and

the patient who uses the repatriation services (hereinafter the “Services”) or on whose behalf the Services are requested, and any representatives who act or purport to act on the patient’s behalf in connection with the Services (the patient and any representatives are hereinafter collectively and individually referred to as the “Client”).

- 1.2. By requesting or accepting an offer, a quotation or the Services, the Client agrees to be bound by these Terms.
- 1.3. These Terms can only be modified or amended by a written agreement between EMS and the Client.
- 1.4. Any other terms or conditions proposed or presented by Client are expressly rejected. These Terms are the only terms under which EMS offers or provides the Services to the Client.
- 1.5. EMS’ failure to insist upon strict observance of these Terms or to exercise any right or remedy to which it is entitled shall not constitute a waiver thereof and shall not prevent EMS from insisting on strict observance of these Terms, or from exercising such right or remedy, in the future.
- 1.6. In providing the Services, EMS may contract with third parties, including without limitation, EMS 247 GmbH, EMS Ambulance B.V. and other subcontractors or service providers (hereinafter “Subcontractors”).

## 2. Offers, quotations, and changes

- 2.1. Each offer and quotation (hereinafter referred to as “Quotation”) provided by EMS is non-binding until accepted but may include a deadline for acceptance. Client is deemed to have accepted a Quotation at the earliest of (a) Client’s verbal or written acceptance, and (b) Client’s verbal or written instruction to EMS to commence the repatriation. A Quotation will lapse if the Services to which the Quotation pertains are no longer available.
- 2.2. Unless otherwise indicated stated in the Quotation, the price includes the costs for patient transport, medical equipment, inventory, our staff, and incidental charges (such as ferryboat transport and levies at border checkpoints) but *excludes* the cost of airline tickets. The cost of airline tickets will be invoiced separately and are non-refundable.
- 2.3. During repatriation, the type or method of transport may be changed if EMS in its sole judgment believes it is medically necessary (for example, changing from medical escort on a commercial flight to a private air transport). EMS will calculate any additional or increased costs resulting from the change and submit a supplemental invoice to the Client. Client agrees to pay the supplemental invoice when due.
- 2.4. EMS cannot be expected to observe its quotations or offers if the relevant Quotation, or part thereof, contains an apparent error or mistake.
- 2.5. EMS will not be bound by any acceptance or communication from Client that would modify an offer, a quotation or these Terms, unless EMS expressly agrees in writing to such addition or modification.
- 2.6. A combined price quotation does not oblige EMS to carry out part of the assignment in exchange for an agreed part of the indicated price. Offers and quotations only apply to the specific project for which they are prepared and may not be used for future assignments.

## 3. Information

The Client gives EMS access to and authorises EMS to request all medical reports and information in so far as relevant to the execution of the Services. EMS may rely on the information provided. The Client guarantees the reliability and completeness of the medical reports and information provided to EMS.

#### **4. Communication**

Unless EMS and Client otherwise agree in writing, the Client agrees that any communications relating to the Services may be made via email, chat, online conference, telephone, fax and SMS, even though such methods may not be secure.

#### **5. Transportability**

EMS may refuse to transport the patient if EMS' management, in its sole judgment, believes that such transport is not safe.

#### **6. Contractual term, execution and amendment of the agreement, price increases**

- 6.1. The agreement between EMS and the Client is concluded for a defined period, namely for the duration of the execution of the Services, and payment of all amounts due. Sections 11 and 12 shall survive any expiration or termination of the agreement.
- 6.2. If EMS requires information from the Client for the execution of the agreement, EMS is not obligated to commence the repatriation until it has received accurate and complete information it has requested.
- 6.3. The parties will amend the agreement accordingly, on a timely basis and in mutual consultation if it becomes apparent during the execution of the agreement that the agreement should be supplemented or amended to ensure proper execution. There may be consequences for what was originally agreed if the nature, scope or content of the agreement changes and the agreement is there for amended, whether or not upon request or indication of the Client, the competent authorities, etc. This may cause the original amount to increase or decrease. EMS will indicate the cost in advance insofar as possible. An amendment to the agreement may result in a change to the original execution period. The Client recognises and accepts the possibility of changes in the pricing and execution period.
- 6.4. If the agreement is amended (such amendment also includes supplements), EMS will be entitled to only execute the agreement once the authorised individual of EMS has granted approval and once the Client has agreed to the price and other conditions for execution, including the new execution time.
- 6.5. Without causing a default on its side, EMS may refuse a request for amendment of the agreement if such amendment could have qualitative and/or quantitative consequences for the work to be carried out or the Services to be provided in that context.

#### **7. Suspension and dissolution**

- 7.1. EMS is entitled to suspend observance of its obligations or to dissolve the agreement forthwith and with immediate effect, if: - the Client fails to observe the obligations stemming from the agreement, fails to observe them in full, or fails to observe them on time; - once the agreement has been concluded, EMS is able to reasonably deduce from circumstances that have come to its attention that the Client will not observe its obligations under the Agreement; - the Client was asked, upon conclusion of the Agreement or prior to execution of the Agreement, to provide security for the fulfillment of its obligations stemming from the Agreement and has failed to provide such security or provided insufficient security; - due to a delay that is attributable to the Client EMS can no longer be expected to observe the Agreement under the original conditions; - circumstances arise that are of such a nature that observance of the Agreement becomes impossible or imply that EMS cannot reasonably be expected to proceed with the unaltered continuation of the Agreement; - in the event of force majeure as referred to in the law and EMS is entitled to suspend the execution of the Agreement in accordance with Article 9 of the Terms.
- 7.2. If such dissolution is attributable to the Client, the Client will be obliged to compensate EMS for the damages suffered by it, including the applicable costs, whether direct or indirect.
- 7.3. EMS' claims against the Client will become immediately claimable if the Agreement is dissolved. If EMS suspends the observance of its obligations, EMS will retain all claims under the law and those stemming from the Agreement.

7.4. If EMS proceeds with suspension or dissolution based on the grounds referred to in this article, EMS will not be obliged to provide compensation for damages and costs resulting from such, in any way, or to provide the Client with any indemnification.

## **8. Cancellation fees**

- 8.1. After acceptance of the offer, but before the commencement of the repatriation, if the Client decides not to proceed, or is unable to proceed, with the repatriation for any reason (including without limitation, improvement or deterioration of medical condition, and death), the Client is responsible for, and shall pay to EMS, an amount equal to sixty percent (60%) of the quoted amount. Commencement of repatriation occurs when EMS sends an order confirmation to the Client.
- 8.2. After commencement of repatriation, EMS must forgo any conflicting repatriation opportunities, allocate and schedule personnel, and incur costs relating to equipment and other items required for the Services. Therefore, after commencement of repatriation, even if the repatriation is not completed for any reason (including without limitation any of the reasons in Section 8.3 below), the Client is responsible for, and shall pay to EMS, one hundred percent (100%) of the quoted amount.
- 8.3. Reasons for failing to complete the repatriation may include cases where (a) the patient is deemed unfit for transport, and (b) the patient information provided to EMS prior to drawing up the Quotation is or appears to be incorrect or incomplete.

## **9. Force majeure**

- 9.1. EMS is not required to fulfill any obligation towards the Client if hindered in its fulfillment of that obligation by any circumstance not attributable to it, and for which it is not accountable by virtue of the law, legal action or according to generally accepted standards.
- 9.2. In these Terms, force majeure is defined, in addition to the relevant definitions in the law and in case law, as all external causes, foreseen and unforeseen, that are beyond EMS' control and which hamper EMS in its ability to comply with its obligations. EMS is also entitled to invoke force majeure if the circumstance which hampers (further) observance of the Agreement comes into force after EMS should have ready complied with its obligation.
- 9.3. EMS will be entitled to invoice separately for that which has already been carried out or that which will still be observed, if, at the time that the force majeure situation starts, EMS has already fulfilled its obligations stemming from the Agreement, in part, or will be able to fulfill them, and the obligations that were fulfilled or that will be fulfilled can be assigned a separate value. The Client is obliged to pay this invoice as if it involved a separate Agreement to which these Terms were declared applicable.

## **10. Payments and interest**

- 10.1. Payment must always be made in full in advance, unless EMS has agreed otherwise in writing. Any additional charges not covered by the Quotation and prepayment will be invoiced separately. Payment shall be made by bank transfer or by credit card at this web page: [www.ems-247.com/payment](http://www.ems-247.com/payment)
- 10.2. If the Client remains default with regard to the timely payment of an invoice, the Client will be in default by operation of law. The Client will then owe the statutory interest. Interest on the outstanding amount will be calculated from the time that the Client is in default with the payment until the full outstanding amount has been paid.
- 10.3. The Client's payment obligations will not be suspended on account of objections to invoice amounts. All reasonable extrajudicial costs for obtaining payment will be borne by the Client if the Client is in default with the (timely) observance of its obligations. The Client shall also pay interest on the outstanding collection costs according to applicable law.

## **11. Liability**

- 11.1. Neither EMS nor its Subcontractors shall be liable for loss or damage, of any nature whatsoever, resulting from EMS' use of incorrect and/or incomplete information made available by or on behalf of the Client.
- 11.2. Neither EMS nor its Subcontractors shall be liable for indirect loss or damage, including consequential damage, lost profit, missed savings and damage caused by business interruptions or any other interruptions.
- 11.3. EMS' liability will, in any event, be limited to the amount paid out by its insurance in the relevant situation.
- 11.4. The limitations relating to liability, referred to in this article, will not apply if the loss or damage is the result of intentional actions or gross negligence on EMS' part or on the part of its management subordinates.
- 11.5. The Client includes the patient and any representatives. The obligations of the patient and each representative under these Terms are joint and several.

## **12. Governing law, jurisdiction, domicile**

- 12.1. EMS is registered in Hong Kong and is responsible for providing the Services. Offers, proposals and agreements with the Client are subject to final approval and acceptance by EMS in Hong Kong.
- 12.2. These Terms and any agreements between EMS and Client will be governed by, and construed and enforced in accordance with, the applicable laws and regulations of Hong Kong, even if all or any portion of the Services are performed outside of Hong Kong or the party bringing the claim resides outside of Hong Kong.
- 12.3 (a) Subject to clause 12.3(b), the Client and EMS irrevocably agree that the courts of Hong Kong are to have exclusive jurisdiction for the purpose of hearing and determining any suit, action or proceedings and/or to settle any disputes arising out of or in any way relating to the Services, these Terms, any agreement between EMS and Client, or the formation or validity of any agreement between EMS and Client ("Proceedings") and for the purpose of enforcement of any judgment against its property or assets.  
(b) Nothing in this clause shall (or shall be construed so as to) limit the right of EMS to take Proceedings against Client in the courts of any country in which Client has assets or in any other court of competent jurisdiction nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.
- 12.4. A Client is deemed to have chosen a domicile (i) at the address shown in the Municipal Records Database (or equivalent public records) where the Client lives, provided EMS has been notified of such registration, or (ii) the address that the Client or Client's representative provided verbally or in writing to EMS, or (iii) at the address shown in the Client's written notification to EMS to proceed with the repatriation (including electronic communications), or (iv) at EMS' address, if the Client failed to respond to EMS' request for an address.