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## **§ 1 General - scope, form**

1. These terms and conditions apply exclusively to companies, legal entities under public law or special funds under public law within the meaning of § 310 paragraph 1 BGB (German Civil Code). We shall only recognise conflicting, supplementary or deviating conditions of the customer if we expressly agree to their validity in writing. Our terms and conditions of business shall also apply if we perform the service to the customer without reservation in the knowledge of the customer's terms and conditions that are contrary to or deviate from our terms and conditions of business.

2. These terms and conditions shall also apply to all future transactions with the customer, insofar as these are legal transactions of a related kind.

3. Individual agreements made with the customer in individual cases (including collateral agreements, supplements and amendments) shall take precedence over these terms and conditions. Subject to proof to the contrary, a written contract or our written confirmation shall be decisive for the content of such agreements.

4. Legally relevant declarations and notifications of the customer with regard to the contract (e.g. setting of a deadline, notification of defects, withdrawal or reduction) shall have to be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax).

## **§ 2 Offers, conclusion of contract**

If an order is to be qualified as an offer according to § 145 BGB (German Civil Code), we can accept it within two (2) weeks. Acceptance shall be effected by our written order confirmation.

## **§ 3 Prices and payment**

1. Unless otherwise stated in the order confirmation, the remuneration is due for payment net (without deduction) within fourteen (14) days from date of invoice. The statutory regulations concerning the consequences of default of payment shall apply.

2. All prices are exclusively quoted in EURO, statutory VAT (value added tax) at the current rate excluded. Payments have to be made in EURO.

3. The deduction of a cash discount requires a special written agreement.

4. Default interest shall be charged at a rate of 9 % above the respective base rate per annum. We reserve the right to assert higher damages caused by default.

## **§ 4 Dates, delivery periods**

1. The beginning of the delivery time stated by us presupposes the clarification of all technical questions.

2. Compliance with our delivery obligation further requires the timely and proper fulfilment of the customer's obligations. We reserve the right to raise the defence of non-performance of the contract.

3. We shall only be in default if the customer has previously set us a reasonable deadline in writing to perform the service owed without result. In any case, time limits shall only run from the complete performance of all cooperation actions owed by the customer.

4. If the customer does not, not in time or not properly comply with his obligations to cooperate, we shall be entitled to charge him for the additional expenses incurred. Further claims or rights are reserved.

5. Insofar as the prerequisites of the above § 3 are met, the risk of accidental loss or accidental deterioration of the customer's test items shall pass to the customer at the point in time at which the customer is in default of acceptance or debtor's delay.

6. If the performance owed by us is delayed due to unforeseeable circumstances for which we are not responsible (e.g. industrial disputes, operational breakdowns, transport obstacles, insufficient supply of materials, official measures, restrictions in energy supply), we shall be entitled to withdraw from the contract in whole or in part or, at our discretion, to postpone the delivery or performance by the duration of the obstruction. Claims for damages are excluded.

7. We shall be liable in accordance with the statutory provisions insofar as the underlying contract is an agreement where time is of the essence within the meaning of § 286 (2) No. 4 BGB (German Civil Code) or § 376 HGB (German Commercial Code). We shall also be liable in accordance with the statutory provisions if, as a consequence of a delay of delivery for which we are responsible, the customer is entitled to claim that his interest in the further performance of the contract has ceased.

8. We shall also be liable in accordance with the statutory provisions if the delay in delivery is due to an intentional or grossly negligent breach of contract for which we are responsible; any fault on the part of our representatives or vicarious agents shall be attributed to us. If the delay in delivery is due to a grossly negligent breach of contract for which we are responsible, our liability of damages is limited to the foreseeable, typically occurring damage.

9. We shall also be liable in accordance with the statutory provisions insofar as the delay in delivery for which we are responsible is based on the culpable breach of an essential contractual obligation; in this case, however, liability for damages shall be limited to the foreseeable, typically occurring damage.

10. Further legal claims and rights of the customer remain reserved.

## **§ 5 Place of performance, order execution**

1. Place of performance is Bissingen/Teck.

2. We provide our services in accordance with the generally accepted rules of science and technology.

3. We shall not provide compensation for damage to or destruction of test items as a result of the proper performance of our services. The costs of any disposal measures of damaged or destroyed test items will be charged to the customer.

4. The transport and return transport or respectively the consignment and reconsignment of the test items shall be effected at the customer's cost and risk. The return transport or respectively the reconsignment shall only be done upon the customer's explicit request and shall always be effected ex works Bissingen/Teck. This shall also apply even if we organise the return transport or respectively the reconsignment.

5. When storing the customer's objects, our liability shall be limited to our own customary care.

## **§ 6 Obligations of the customer to cooperate**

1. The customer is under obligation to fully inform us of all facts relevant to the performance of our services (e.g. material, technical data sheets). We are under no obligation to check the data, information or other services provided by the customer, for completeness and accuracy.

2. Insofar as a cooperative action on the part of the customer is required for the performance of our service, the customer shall perform such action at his own expense and with the aid of his own equipment in

consultation with us.

3. If the customer does not, not in time or not properly comply with his obligations to cooperate, we shall be entitled to charge him for the additional expenses incurred. § 4 paragraphs 3 and 4 of these terms and conditions shall apply.

## § 7 Acceptance

1. Insofar as our services require acceptance, the customer shall be obliged to do so upon written request within a reasonable period of time, even if there are insignificant defects which do not seriously impair the contractually agreed purpose.

2. Our services shall be deemed to have been accepted unless the customer expressly raises reservations in writing, stating reasons, no later than ten (10) days after handing over or consigning our services.

## § 8 Warranty

1. We provide our services through our own experts or carefully selected subcontractors. Should we have provided a defective service, the customer shall give us the opportunity to rectify the defect within a reasonable period of time. Insofar as a replacement item from the customer is required for the rectification of defects, this shall have to be provided by the customer. If the rectification of defects fails, the customer has the right to withdraw from the contract or to reduce the agreed remuneration. However, the right of withdrawal does not exist if the defect is only insignificant.

2. The issue of a test report does not contain any statement about the usability or quality of the test item beyond the concrete technical content.

## § 9 Liability

1. We shall be liable in accordance with the statutory provisions if the customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. As far as we are not accused of intentional breach of contract, the liability for damages is limited to the foreseeable, typically occurring damage.

2. We shall be liable in accordance with the statutory provisions if we culpably violate an essential contractual obligation; however, even in this case the liability for damages shall be limited to the foreseeable, typically occurring damage. An essential contractual obligation exists if the breach of duty refers to an obligation on the fulfilment of which the customer has relied on and was entitled to rely on.

3. Liability for culpable injury to life, body or health remains unaffected; this also applies to mandatory liability under the Product Liability Act.

4. Unless otherwise regulated above, liability is excluded.

5. The limitation period for claims for defects is 12 months, calculated from the transfer of risk.

## § 10 Joint and several liability

1. Any further liability for damages other than that provided for in § 8 and § 9 shall be excluded, irrespective of the legal nature of the claim asserted. This applies in particular to claims for damages arising from culpa in contrahendo, other breaches of duty or tortious claims for compensation for material damage according to § 823 BGB (German Civil Code).

2. The limitation according to paragraph 1 shall also apply if the customer, instead of claims for damages, demands compensation for futile expenditures in lieu of performance.

3. Insofar as liability for damages against us is excluded or limited, this shall also apply with regard to the personal liability for damages of our employees, workers, staff, representatives and vicarious agents.

## § 11 Property rights, copyrights

1. Unless otherwise agreed in writing, drawings, models, tools or devices produced by us for the execution of the order are not subject matter of the contract. In this respect we reserve all property rights and

copyrights. Furthermore, unless otherwise expressly agreed in writing, we are entitled to all property rights to any invention and/or know-how acquired in connection with the contractual services.

2. Insofar as we have designed, manufactured and/or assembled in accordance with instructions, drawings or other documents of the customer, we shall not assume liability for any infringements of copyrights or property rights that may result therefrom.

3. The dissemination and utilisation of our test reports is exclusively permitted to the customer, and this only in unabridged original wording and in original design. The publication of our services is only permitted with our prior written consent.

## § 12 Data transmission

The data from our services (e.g. test reports, test schedule, measurement data etc.) shall be transmitted to the customer electronically. If the customer wishes a different method of delivery, this shall have to be noted and agreed in writing by the customer at the latest when ordering.

## § 13 Right of set-off and retention

The customer shall only be entitled to offsetting rights if his counterclaims have been legally established, are undisputed or have been recognised by us. Furthermore, he shall only be entitled to exercise a right of retention if his counterclaim is based on the same contractual relationship.

## § 14 Place of performance, place of jurisdiction and applicable law

1. Unless otherwise stated in the order confirmation, our registered office shall be the place of performance.

2. The place of jurisdiction for all disputes arising from the contractual relationship shall be the court responsible for our registered office if the customer is a company, a legal entity under public law or a special fund under public law within the meaning of § 310 paragraph 1 BGB (German Civil Code).

3. However, we reserve the right to sue the customer at his general place of jurisdiction.

4. The law of the Federal Republic of Germany shall apply exclusively to all legal relationships between us and the customer, even if the customer has its registered office abroad.

## § 15 Final provisions

Should any of the above terms and conditions be or become invalid or unenforceable, the validity of the remaining terms and conditions shall remain unaffected. The invalid or unenforceable provision shall be replaced by a valid and enforceable provision whose effects come as close as possible to the economic objective which the contracting parties pursued with the invalid or unenforceable provision. The above terms and conditions shall apply accordingly in the event that the contract proves to be incomplete.

In case of differences between the German and English versions or in case of doubt the German version applies.

Bissingen/Teck, 27 May 2020