

# General Terms and Conditions for Testing Services of celotec GmbH & Co. KG

## 1. Scope

- (1) These General Terms and Conditions govern the contractual relationship between the ordering parties of expert opinion, analyses and testing services and us. They shall be deemed accepted and legally binding by the customer upon placement of the order.
- (2) They shall continue to apply to all future transactions with the customer, even if we have not expressly referred to them in individual cases and insofar as this is a legal transaction of a related nature.
- (3) These terms and conditions shall only apply to companies, legal entities under public law or special funds under public law within the meaning of Section 310 I German Civil Code (BGB).
- (4) The following provisions shall apply exclusively to all our test services. Deviating general terms and conditions and other regulations shall not be valid.

## 2. Placing of order

- (1) Our offers are subject to change without notice and are non-binding, unless they are expressly marked as binding or a binding offer has been made.  
Changes and additions to the order must be confirmed by us in writing.
- (2) Offers are specified for the respective order and take account of the conditions prevailing at the time of preparation of the offer. They contain confidential information and must therefore not be made accessible to a third party.

## 3. Services

- (1) We will perform our services impartially, neutrally and to the best of our knowledge and belief in accordance with generally accepted engineering standards and in compliance with the regulations in force at the time the order is accepted.
- (2) As a rule, we provide our services by our own specialist personnel. However, we are entitled to use carefully selected third parties (service providers/subcontractors) to perform our tasks if necessary.
- (3) The scope of the services to be rendered by us shall be specified in writing when the order is placed. Partial services shall be possible, as shall their separate invoicing.
- (4) In accordance with the commissioned service, we prepare a written documentation for the customer. The type and content of the documentation and scope are derived specifically from the test performance and, if applicable, from an individually agreed purpose of use.

## 4. Customer obligations

- (1) The customer shall provide us with all information, documents and testing material necessary for the execution of the order in a complete, properly packaged form, in sufficient quantity and free of charge and in good time. The test specimens required for the performance of laboratory tests shall be delivered by the customer duty unpaid and free of charge in accordance with our specifications. However, we reserve the right to request further test specimens to secure the test result. In order to enable proper testing, these must be in a correspondingly testable condition.
- (2) The customer has to draw attention to all processes and circumstances which could be of importance for the execution of the order.
- (3) In the event of incomplete or delayed handover of documents or the complete failure to hand them over, we shall be entitled, at our discretion, to decide whether the agreed date for the provision of services should be postponed or whether we should withdraw completely from the contract. In the event of withdrawal from the contract, the customer shall be obliged to pay a lump-sum for expenses amounting to 30% of the gross order value.

## 5. Examination deadline

- (1) The test is completed when the test documentation is dispatched or if it was necessary to terminate the test in an unscheduled manner. Preferably when placing the order the customer shall inform us about what should happen to the test specimen after the completion of the test. If he does not comment on this, the provisions of Section 3 shall apply.
- (2) The customer shall bear the risk and the costs for freight and transport of documents or test specimens to us and the costs for necessary disposal measures.
- (3) The customer undertakes to collect the test specimen within 6 weeks of completion of the test. We shall determine the collection date together with the customer. If the test specimen is not collected within this period, we shall dispose of it at the customer's expense, based on a reasonable cost framework.
- (4) During the storage period of the test specimens, we shall only be liable for the care which we have taken in our own similar test specimens.  
Matters (section 690 BGB).

## 6. Prices - terms of payment

- (1) Our prices are quoted in Euros (plus statutory VAT).
- (2) If a down payment for the whole or parts of the order sum has been agreed, we shall have the right to only commence execution of the order after receipt of payment.
- (3) Unless otherwise agreed, our invoices are due within 10 days of the invoice date.
- (4) Even in the case of deviating redemption determinations, the customer's services shall be offset against the oldest due claim, unless we have agreed on a different redemption sequence with the customer.
- (5) We shall be entitled to perform or render outstanding services only against advance payment or security if, after conclusion of the contract, we become aware of circumstances which are likely to significantly reduce the creditworthiness of the customer and through which we consider the payment of our claims to be at risk.
- (6) If an inspection or examination is terminated prematurely for reasons for which we are not responsible, the customer shall pay the entire performance. In the event of premature termination for which we are responsible, the costs incurred up to that time shall be charged on a time and material basis. This shall not apply if we have acted with intent or gross negligence.
- (7) The customer shall only be entitled to exercise any right of retention to the extent that his counterclaim is based on the same contractual relationship.

## **7. Warranty**

- (1) We guarantee the proper and professional execution of our services.
- (2) The customer agrees with this and is aware of the fact that it may be possible to destroy the test specimen due to excessive load during a basically non-destructive test. In addition, there is a regular risk that test specimens may be damaged by scratches or the like even during non-destructive tests.
- (3) The results contained in the test reports represent a factual assessment of the specimen tested by us and are not to be regarded as a guarantee or warranty for the quality, classification or usability of the material.
- (4) We undertake to provide only services and no specific success. It is the responsibility of the customer to decide on how the service is used for the purpose he has in mind.
- (5) Complaints must be made to us in writing by the customer immediately after discovery.

## **8. Liability**

- (1) We shall only be liable for damage - irrespective of the legal basis - if the damage was caused intentionally or grossly negligently by our employees.
- (2) In the event of damage caused by negligence, we shall only be liable in the event of a breach of a material contractual obligation, but limited in amount to the damage foreseeable and typical for the contract at the time of conclusion of the contract.
- (3) We shall not be liable for indirect damages such as, in particular, lost profits, costs associated with a business interruption or claims by third parties.

## **9. Force majeure**

Cases of force majeure entitle us to postpone delivery for the duration of the hindrance and a reasonable start-up period or to withdraw from the contract in whole or in part because of the part not yet fulfilled. Force majeure shall be deemed to include all unforeseeable events, the effects of which on the performance of the contract are not the responsibility of any party in the contract. These events include natural catastrophes, in particular industrial disputes by third companies, official measures, failure of machinery as well as cases of civil defence and unrest.

## **10. Data collection and use**

The customer agrees that we are entitled to use data (e.g. test specimen descriptions) and results (e.g. test, classification values) determined within the framework of the provision of services in an anonymous manner for our own purposes, e.g. for statistical surveys or technical evaluations and evaluations.

## **11. Confidentiality**

- (1) We undertake to treat confidentially all business and personal data, business and company secrets of the customer which become known on the occasion of the contractual relationship. This also applies to the customer.
- (2) The customer and we are released from the obligation of confidentiality in connection with statutory provisions and official obligations.

## **12 Jurisdiction / Place of performance / Applicable law**

- (1) Place of performance is Sendenhorst.
- (2) The place of jurisdiction shall at our discretion be our registered office or the registered office of the customer. (3) The law of the Federal Republic of Germany shall apply.

## **13. Miscellaneous**

- (1) The customer may not transfer his contractual rights to third parties without our express consent.
- (2) Should a provision in these terms and conditions or a provision within the framework of other agreements be or become invalid in whole or in part, this shall not affect the validity of all other provisions or agreements.