

Standard Terms and Conditions of Papiertechnische Stiftung

Papiertechnische Stiftung (hereinafter called "PTS") pursues directly and exclusively non-profit-making activities. It carries out contract research and consultancy projects in the field of paper technology. The standard terms and conditions listed below shall apply to any and all orders placed within these fields:

1. Scope of application

- a) The conditions below shall apply to all contracts directed to the consultancy, testing, measurement, research and development of products, concepts, process control and the like.
- b) Any conditions of the contracting party that depart from, conflict with or supplement this contract shall not be considered to be an integral part without the prior written consent of PTS.
- c) As a rule, the contracts placed by the contracting parties fall under the regulations of the laws applying to service contracts (Section 611 ff., German Civil Code) unless by virtue of an explicit agreement PTS undertakes to produce or deliver a service complying with the state of the art as a result of research and development. In this case, the regulations of the law on the sale of goods or the law on contracts for works or services shall apply in accordance with subsection 7c).
- d) Provided that the standard conditions set forth below exclude or limit the liability of PTS, its legal representatives or vicarious agents, such exclusion or limitation shall not apply to liability arising from damage or injury inflicted to life, body or health.

2. Subject matter of the contract, Time of performance

- a) The subject matter of the contract comprises the services and work stipulated in detail in the specification of services and in the written offer.
- b) Insofar as the specification of services or the written offer contains a time in which services are to be rendered, this shall be considered binding only if PTS explicitly declares the time of performance as binding. If it should be determined while the order is being executed that the time of performance as agreed by contract cannot be met, PTS shall inform the contracting party of the reasons for the delay and agree upon fair and reasonable adjustment with the same. Should it be determined that the delay is not due to circumstances for which PTS is liable but rather to circumstances which follow from the nature of the activity involved or for which the contracting party is responsible, PTS shall be entitled to extend the deadline that it had accepted as binding. PTS shall be entitled to set a fair and reasonable time extension unilaterally.

3. Compensation

- a) Compensation shall be in accordance with the terms contained in the written offer and shall be invoiced either as a fixed price or a price calculated on a time (and material) basis. Value added tax shall be added to the price in each case.
- b) Travel expenses incurred shall be calculated according to the highest possible tax rates. Hotel accommodations and commuting expenses shall be calculated based on the costs incurred except for travel by car. This shall be calculated on the basis of Euro 0.30 per kilometre driven.
- c) Incidental expenses for postage, telephone, typing and photocopying are contained in the agreed compensation, but not the cost of materials.
- d) PTS shall inform the contracting party without undue delay as soon as it becomes apparent that the service target cannot be met on the basis of the compensation agreed upon. If this could not be predicted at the time the contract was awarded and the changed circumstances are not the responsibility of PTS, PTS shall have a right to adjust compensation. PTS shall propose adequate adjustment to the contracting party. In the event that no agreement can be reached, PTS shall have the right to set a fair and reasonable adjustment unilaterally.
- e) The following conditions shall apply to PTS events: The balance will be refunded if PTS receives a written notification of cancellation at the latest 7 days before the event. After that date no refund will be given. In case the event is cancelled by PTS, all delegate fees already paid will be refunded automatically.

4. Payment

- a) The agreed payments shall fall due subsequent to invoicing and in accordance with the agreed payment plan, at the latest 14 days after the invoicing date. Payments shall be made without deduction to the account cited by PTS stating the invoice number.
- b) Offsetting payment against a PTS claim is permissible only if the counterclaim is uncontested or if a final decision has not been reached.

- c) The contracting party can exercise a right of retention only if his counterclaim is based on the same contractual relationship.

5. Licence to exploit the result of services

- a) The result of services shall be delivered to the contracting party after completion of the contract as set forth in the specification of services.
- b) The contracting party shall be granted a non-exclusive licence for an indefinite period of time and paid for by the agreed compensation to exploit the results of services for the purpose set forth in his contract.
- aa) If secret expertise is transferred by PTS within the scope of the activity, the contracting party shall undertake to keep this as his own trade secret on behalf of PTS and not to disclose it. The contracting party shall impose the same obligation on his employees and any vicarious agents who come into contact with and gain knowledge of the secret expertise. Apart from that, the contracting party shall observe utmost secrecy even within the company. This obligations shall remain valid as long as the secret expertise is not released by PTS in written form or is permissibly disclosed by a third party or otherwise becomes demonstrably apparent.
- bb) If while rendering the contractual services industrial property rights (patents, utility models, etc.) are created that have to be filed, the contracting party must bear a reasonable share of the costs of filing, maintaining and defending the industrial property rights as well as of the remuneration of employed inventor(s).
- cc) If the contracting party wishes to have exclusive licences granted to him, he must conclude a separate agreement to that effect. PTS shall in any case retain a separate, exclusive licence to use either alone or together with the contracting party the results of services for the paper industry within the scope of the PTS objectives as set forth in the articles of association. In addition, PTS shall be authorised to grant corresponding industrial property rights to subsidiary companies.
- c) If industrial property rights already created by PTS are employed when rendering contractual services, the contracting party shall be granted a non-exclusive licence for these rights which is covered by the agreed compensation, provided that this is not contravened by other obligations on the part of PTS.
- d) The contracting party undertakes not to attack any industrial property rights accruing to PTS or those assigned to a subsidiary company. If the contracting party violates this clause, the license of the contracting party shall terminate immediately.

6. Property rights of third parties

- a) If the situation should arise while PTS is rendering services that within the scope of the services rendered or within the scope of future exploitation of the results of services, conflicting property rights of third parties must be observed, the contractual parties shall decide by common consent how allowance is to be made for these property rights in effecting performance in future. PTS undertakes to inform the contracting party of such rights without undue delay.
- b) Should such property rights of third parties be infringed, PTS shall be liable if it has failed to perform its duty to warn. Liability shall be restricted in accordance with section 8.2. hereinbelow. Moreover, PTS shall be liable only if such property rights exist within the territory of the Federal Republic of Germany, if the contracting party has been using the result of services as set forth in the contract and if PTS was informed without undue delay in writing by the contracting party of the claims being asserted by the third party. PTS can claim rectification, it being possible alternatively to modify the result of services in such a way that the affected property rights of the third party are no longer infringed or to elicit from the third party permission to enjoy the said rights in accordance with the contract.

7. Secrecy

The parties to the contract undertake not to disclose to third parties any facts of a technical or commercial nature that have been mutually agreed upon as requiring secrecy. This shall also apply after completion of this contract. Only those facts and circumstances are not confidential that are already publicly known or become publicly known during the performance of the contract and are not the fault of the parties to the contract, their employees or vicarious agents.

8. Liability

- a) The liability of PTS arising from the infringement of contractual duties and from liability in tort is limited to intent and gross negligence. In minor cases of negligence, PTS shall be liable only if obligations essential to the contract have been infringed. Liability shall in any case be limited to predictable damage typical of the contract. Action involving gross negligence on the part of simple vicarious agents of PTS shall also exclude their liability.
- b) In the event of non-performance, belated fulfilment or faulty fulfilment of the services incumbent on PTS, damages instead of services may only be claimed if PTS was granted a reasonable period in which to rectify the situation and failed to do so.
- c) In the event that PTS has to fulfil obligations arising from contracts of sale or contracts for work and services, the corresponding legal provisions shall apply in accordance with the following clauses:
 - aa) PTS must be granted the right of rectification at least twice, or several times if need be, according to the circumstances, each time with a reasonable deadline being fixed.
 - bb) The right to withdraw from the contract can be exercised only in case of substantial deficiency.
 - cc) The contracting party must examine the result of services delivered by PTS without undue delay and give notice of defects immediately. Claims on account of obvious deficiencies exist only if they are announced to PTS within a period of 14 days after the result of services has been delivered.

9. Statute of limitations

Claims of the contracting party that originate from minor cases of negligence of obligation or of the commission of an offence shall lapse at the end of twelve months. Claims of the contracting party on account of a deficiency as set forth in section 438, paragraph 1, sentence 2 (right of recourse) and section 634a, paragraph 1, sentence 2 (building defects) are excluded.

10. Reservation of title

- a) The ownership of the result of services and the right of use to which the contracting party is entitled shall not pass to the contracting party until the agreed compensation has been paid in full. PTS property including usage rights shall neither be given in pledge nor transferred by way of security.
- b) The contracting party is entitled to use the results of services already delivered to him irrespectively of the reservation of title. Reselling the result of services, however, is permitted only if the contracting party assigns all rights from such reselling to PTS until the agreed compensation has been paid in full.

11. Publications

The contracting party shall not be entitled to publish the result of services delivered to him unless PTS has given its consent. In the latter case, the contracting party must cite the author and PTS. Agreement should be reached making certain that dissertations, theses or applications for property rights and the like are not affected. No part of this test report may be published, reproduced or passed on to a third party without the written permission of Papiertechnische Stiftung (PTS). This does not apply to customers of the contracting party, to public authorities or administrative bodies concerned with the test report as well as to other parties authorized or engaged by the contracting party who are bound to observe professional secrecy. In the case that the test report becomes the cause or subject of litigation, the contracting party shall inform Papiertechnische Stiftung (PTS) comprehensively and in full detail about this.

12. Other provisions

- a) Supplements, changes or amendments to the contract must be made in writing.
- b) The place of performance shall be the business location of PTS. The same shall apply to the place of performance for payments made by the contracting party.
- c) With the exception of the UN Convention on Contracts for the International Sale of Goods (UN-CISG), the substantive law of the Federal Republic of Germany shall apply to all legal relationships.
- d) In the event that one or more provisions are or become invalid in whole or in part, the validity of the remaining provisions shall remain unaffected. The same shall apply if the agreement is found to contain any gaps or omissions.