

## **GENERAL TERMS AND CONDITIONS (AGB)**

of ROTEC GmbH for services such as testing, consulting, expert opinions and development services.

### **1. general and scope of application**

- 1.1 The following terms and conditions shall apply to the agreed services of ROTEC GmbH (hereinafter referred to as ROTEC) as well as to ancillary services and other ancillary obligations provided by ROTEC GmbH within the framework of the execution of the order.
- 1.2 No ancillary agreements to this contract have been made. Amendments and supplements must be made in writing to be legally effective; this also applies to amendments and supplements to this written form regulation itself.
- 1.3 Any general terms and conditions of the customer including any purchasing conditions shall not apply and are hereby excluded. The customer's terms and conditions shall not become part of the contract even if ROTEC does not expressly object to them.

### **2. order processing**

- 2.1 Unless otherwise agreed, all offers made by ROTEC are subject to change without notice.
- 2.2 A contract with ROTEC shall only be deemed concluded when the customer unconditionally accepts an offer from the contractor or receives an order confirmation from ROTEC. If ROTEC issues a written order confirmation, this shall be decisive for the content and scope of the contract, unless expressly agreed otherwise.
- 2.3 All agreements made between the customer and ROTEC for the execution of the contract shall be set forth in writing in the contract including these General Terms and Conditions. Verbal ancillary agreements do not exist.

- 2.4 The agreed services shall be performed in accordance with the regulations in force at the time the contract is concluded.
- 2.5 ROTEC shall be entitled to determine the method and type of examination itself at its own appropriate discretion, unless otherwise agreed in writing or unless mandatory regulations require a specific procedure.
- 2.6 In the case of test orders, ROTEC shall not be responsible for the correctness or verification of the safety programs or safety regulations on which the tests are based, unless otherwise agreed in writing.

### **3. deadlines, performance dates**

- 3.1 The order deadlines stated by ROTEC are based on estimates of the scope of work and are non-binding, unless their binding nature has been expressly agreed in writing.
- 3.2 If the customer grants ROTEC a reasonable grace period after the due date for performance and ROTEC allows this grace period to expire, or if ROTEC is unable to perform, the customer shall be entitled to withdraw from the contract and - insofar as ROTEC is at fault - to claim damages instead of performance.

### **4. obligations of the customer to cooperate**

- 4.1 The customer shall guarantee that all necessary cooperation actions on his part, on the part of his vicarious agents or third parties are performed on time and free of charge for ROTEC.
- 4.2 Construction documents, auxiliary materials, assistants, etc. necessary for the performance of the services shall be made available free of charge. In all other respects, the Client's acts of cooperation must comply with the applicable legal provisions, standards, safety regulations and accident prevention regulations.
- 4.3 The customer shall bear any additional costs arising from the fact that work must be repeated or delayed as a result of late, incorrect or incomplete information or improper cooperation. Even if a fixed and maximum price has been agreed, ROTEC shall be entitled to invoice this additional expenditure additionally.

## **5. warranty**

- 5.1 ROTEC's warranty shall only cover the services expressly ordered by ROTEC in accordance with Clause 2.2. In particular, ROTEC shall not be responsible for the design, material selection and construction of the examined systems, unless these questions are expressly the subject of the order. Even in the latter case, the manufacturer's warranty obligation and legal responsibility shall neither be limited nor assumed.
- 5.2 ROTEC's warranty obligation shall initially be limited to subsequent performance within a reasonable period of time. If the supplementary performance fails, i.e. if it becomes impossible or unreasonable for the customer or if ROTEC unjustifiably refuses or unduly delays it, the customer shall be entitled, at its discretion, to demand a reduction in remuneration or rescission of the contract.

## **6. liability**

- 6.1 ROTEC shall only be liable for damage - irrespective of the legal basis - if ROTEC has caused such damage intentionally or through gross negligence or if ROTEC has negligently breached a material contractual obligation ("cardinal obligation"). In the event of a breach of material contractual obligations, ROTEC shall only be liable for the foreseeable damage typical for the contract at the time of conclusion of the contract.
- 6.2 If ROTEC is liable for damages caused by negligence in the event of a breach of material contractual obligations pursuant to Section 5.1 above, ROTEC's liability for damages shall, however, be limited to the amount of such damages in each case:  
4.000.000,00 EUR for property damage  
1.000.000,00 EUR for financial losses.
- 6.3 Liability for damages caused by the violation of non-essential contractual obligations due to simple negligence is excluded.
- 6.4 "Material contractual obligations" are those obligations which protect material contractual legal positions of the customer which the contract has to grant him according to its content and purpose; material contractual obligations are also those obligations the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which the customer has relied and may rely regularly.
- 6.5 The exclusion or limitation of liability contained in clauses 6.1 - 6.4 shall not apply to damage to life, limb or health or to claims arising from a guarantee of quality or under the Product Liability Act.
- 6.6 The customer shall immediately notify ROTEC in writing of any damage for which ROTEC is to be liable.

6.7 Insofar as claims for damages against ROTEC are excluded or limited, this shall also apply to the personal liability of ROTEC's executive bodies, experts and other employees as well as vicarious agents.

## **7. copyright and secrecy**

7.1 ROTEC shall retain all copyrights and joint copyrights to the expert opinions, test results, calculations, representations, etc. prepared by ROTEC.

7.2 The customer may only use expert opinions, test results, calculations, representations, etc. produced within the framework of the order for the purpose for which they are intended in accordance with the agreement.

7.3 The client may only pass on test reports and the like in their entirety. Any publication or reproduction shall require the prior written consent of ROTEC in each individual case.

7.4 ROTEC's employees and experts shall not disclose or exploit without authorization any business and operating conditions that come to their knowledge in the course of performing their duties outside the performance of the contract.