

General Terms and Conditions of Phoenix Testlab GmbH

1. General Information

- 1.1 After reference has been made to the following General Terms and Conditions of Phoenix Testlab, with the validity of which Phoenix Testlab's contractual partner agrees, the parties to the Agreement have concluded the Agreement overall, which includes these General Terms and Conditions.
- 1.2 The following Terms and Conditions apply for the agreed performance, including advisory services, information, shipments and the like, as well as for ancillary services provided within the framework of the implementation of the Agreement and other contractually agreed subsidiary obligations.
- 1.3 No interfering General Terms and Conditions shall from part of the Agreement, even if they are not explicitly contradicted once more by Phoenix Testlab. In particular, they shall not be tacitly recognized.

2. Offers

Until the final conclusion of the Agreements, offers by Phoenix Testlab, particularly with respect to execution, prices and delivery periods, are without engagement and non-binding, unless they have been explicitly described as "binding".

3. Scope of performance

- 3.1 Only the written acknowledgement of order by Phoenix Testlab is authoritative for the scope of performance.
- 3.2 Phoenix Testlab accepts liability for performance information and undertakings or other statements by its agents or persons employed to perform obligations only if Phoenix Testlab has described these statements in writing as binding.
- 3.3 Unless explicitly agreed otherwise, Phoenix Testlab is not responsible for the examination or correctness of the safety regulations and safety programs on which its tests and reports are based.

4. Periods/dates of performance

- 4.1 The contractually agreed periods and dates of performance are based on estimates of the amount of work on the basis of the statements made by the contractual partner of Phoenix Testlab. They are only binding if they have been explicitly agreed in writing as binding, and only begin when the contractual partner of Phoenix Testlab has performed all prior cooperative actions to be effected by him (see No. 5).
- 4.2 In the event of an order being placed and the use of test facilities on a certain date is agreed in writing between the contractual partner and Phoenix Testlab, this obliges the contractual partner to pay compensation for any loss arising, insofar as the use was not implemented for reasons for which the contractual partner is responsible and if no other use can be found by Phoenix Testlab.
- 4.3 Subject to the regulations stipulated in 4.4 the contractual partner may change dates up to 7 working days before the agreed test date without additional costs accruing to him. If the date is cancelled or postponed with a shorter period of notice of up to 3 working days before the confirmed test date Phoenix Testlab reserves the right to charge 50% of the lost order value (without incidental costs) as deficiency money to the contractual partner. After expiration of the above deadlines the contractual partner has to pay the full order value in the event the date is postponed or changed.
- 4.4 In the event postponements or changes of deadlines of the contractual partner lead to any cancellation costs at third parties the contractual partner shall bear them to the full extent.

5. Cooperation

- 5.1 The contractual partner of Phoenix Testlab shall guarantee and warrant that all necessary cooperative actions to be carried out by him or persons employed to perform obligations on his behalf shall be carried out in good time and free of charge for Phoenix Testlab. These cooperative actions must comply with current standards, safety regulations (VDE, DIN etc.) and accident prevention regulations. If dangers of whatever kind could come from the test item the tester in charge and/or Phoenix Testlab has to be informed in writing about the kind and size of the possible danger before the test is started. This shall also refer to dangers that could arise in normal operation, eg because the test item was modified for the test or because it was put into an atypical operating status as part of the test.
- 5.2 The contractual partner of Phoenix Testlab shall bear any additional costs that may arise if work has to be repeated or is delayed as a result of delayed, incorrect or incomplete information for which he is responsible, or incomplete cooperative actions. Even if a binding fixed or maximum price has been agreed upon, Phoenix Testlab is also entitled to charge such extra additional costs.
- 5.3 If the contractual partner discovers that the test samples certified by Phoenix Testlab were or could become the cause for personal injury, property damage or any other damages he shall undertake to immediately inform Phoenix Testlab about it in writing. In cases in which the test results were carried out by another test lab than Phoenix Testlab and taken as basis by Phoenix Testlab for certifying the devices the contractual partner shall immediately inform Phoenix Testlab if he discovers afterwards that the results of the other test lab on which the certification was based are totally or partly null and void or invalid.
- 5.4 The contractual partner shall undertake to indemnify Phoenix Testlab, its general managers, employees, office workers, executives and persons employed to perform obligations against all costs and expenses of any kind at first request, directly caused by:
- any infringement of the stipulations of these General Terms and Conditions by the contractual partner, including the non-observation or non-performance of any other requirements,
 - any use of the devices in a way that does not correspond to the requirements,
 - any subsequent auditing of the devices certified by these regulations,
 - any event that causes a damage and occurs during the test of the devices, and
 - any intentional or unintentional non-performance of the contractual partner to inform Phoenix Testlab in writing about relevant disclosures or any other misinterpretations unless the liabilities for losses, costs, damages, legal fees or any other expenses were caused by gross negligence or intention of Phoenix Testlab with actions or non-performance when issuing certifications.

6. Warranty

- 6.1 Phoenix Testlab must be notified in writing of defects immediately after their detection.
- 6.2 As a guarantee, the contractual partner can only claim rectification, free of charge, of the defective consignment, if rectification is not carried out within a reasonable time, or if the rectification proves to be unsuccessful, the contractual partner can claim annulment of the contract or reduction of payment (price reduction).
- 6.3 The absence of warranted qualities does not affect the claim for compensation.
- 6.4 The test report by Phoenix Testlab refers only to the concrete tested object and not to the series, even if no design changes have been made in comparison to the tested device. Series-type monitoring is not carried out by Phoenix Testlab.

7. Liability

- 7.1 For all damage arising from one order, the liability of Phoenix Testlab is limited to a maximum of EUR 766,937 unless the damage was caused intentionally or through gross negligence.
- 7.2 Furthermore, with respect to merchants registered in the Commercial Register, the type and scope of all liability accepted by Phoenix Testlab is restricted to damage that was foreseeable for her at the time of conclusion of the contract.
- 7.3 Phoenix Testlab can accept no liability for indirect damage and consequential damage, unless the damage was caused intentionally or through gross negligence or is directly attributable to the infringement by Phoenix Testlab of one of the main obligations in this Agreement. No further claims by the contractual partner can be accepted. This applies in particular to claims for damage not caused by the test object itself. This exemption from liability does not apply if there is compulsory liability for personal injury or damage to privately used property according to the Product Liability Act.
- 7.4 Precautionary measures have been taken for each stage of storage, treatment and preparation for the test, in order to prevent damage to the samples or test objects, for example through dirt accumulation, corrosion or overloading, which would falsify the test results. The contractual partner knows that it is in the nature of things that many tests specified in the requirements may lead to destructions or damages of the test samples. Therefore the contractual partner agrees that Phoenix Testlab neither assumes nor accepts any responsibility for damages to the property of the contractual partner or his employees that might occur during or as a result of a test. Any liability for damages or damages to and/or by the test sample that occur during the agreed electrical and/or mechanical test procedure is thus excluded. The same applies to the use and sale of the test sample after the test.
- 7.5 The limitations on liability do not apply for the absence of warranted qualities. Insofar as Phoenix Testlab is liable besides others as debtors jointly and severally liable, Phoenix Testlab only ever is liable subsidiary in final position. As far as the liability of Phoenix Testlab is excluded or limited, this applies also to employees, workers, representatives and vicarious agents of Phoenix Testlab.
- 7.6 The contractual partner is liable for the correctness, completeness and comprehensiveness of his information, including specifications, company information, technical data, test data, etc..

8. Terms of payment

- 8.1 In addition to all payments and prices, value-added tax at the rate applicable at the point in time of invoicing shall also be charged.
- 8.2 All payments are due without deductions within 10 days of date of invoice.
- 8.3 For contractual partners whose credit status is unknown to Phoenix Testlab, delivery is only affected against payment in advance or C.O.D. The entire claim by Phoenix Testlab becomes due in the event of doubt concerning the solvency of the contractual partner, in particular in the event of arrears in payments, suspension of payments, application for composition of debts or for a moratorium by the contractual partner. In this case, Phoenix Testlab can demand payment in advance or collateral security, and revoke periods of credit already granted.
- 8.4 If a fixed price has been agreed in writing, Phoenix Testlab can charge proportionate part payments in accordance with the extent to which she has fulfilled her contractual obligations.
- 8.5 Phoenix Testlab can present each self-contained part of the order for acceptance as a part performance, and can invoice such parts after acceptance. The contractual partner of Phoenix Testlab is obliged to accept the performance without delay. If the contractual partner of Phoenix Testlab does not immediately meet his obligation to accept, acceptance is regarded as having been effected two calendar weeks after performance.
- 8.6 Complaints concerning the invoices issued by Phoenix Testlab must reach Phoenix Testlab within an exclusion period of 10 calendar days from the invoices date, with reasons being submitted in writing. Only legally recognized or undisputed claims can be used to offset claims by Phoenix Testlab.
- 8.7 The date of fulfillment is regarded as the point in time when Phoenix Testlab can dispose of the paid sum. If the agreed periods of payment are culpably exceeded, the consequences of default shall take effect without separate reminder being necessary. Subject to the assertion of order and further rights, presently default interests of 8 percentage points above the basic interest rate are charged.

9. Accreditation and Recognition

- 9.1 The test laboratories of Phoenix Testlab are accredited by DATech in accordance with DIN EN ISO/IEC 17025. The Notified Body of the EMC Directive, the Notified Body of the R&TTE Directive and the Conformity Assessment Body in the Scope of Telecommunication and EMC for USA, Canada and Japan of Phoenix Testlab are recognized by the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway.
- 9.2 The accreditation of Phoenix Testlab does not mean that the test report is approved by the accreditation body or any other agency.
- 9.3 The contractual partner shall not use or release test reports or parts thereof for advertising purposes if the use is regarded as misleading by the accreditation agency. The contractual partner shall receive separate notification of this from Phoenix Testlab, and this notification shall take effect on its receipt by the contractual partner.
- 9.4 The test report may not be copied in whole or in part without the written authorization of the accreditation agency and/or Phoenix Testlab.
- 9.5 Should contractual partners wish to refer to the utilization of Phoenix Testlab as an accredited test laboratory, the following formulation must be used: "Tested by Phoenix Testlab, a test laboratory accredited by DATech". The contractual partner undertakes to refrain from using such references as soon as he receives written notification from Phoenix Testlab that the accreditation has been withdrawn.

10. Passage of risk/Disposal

- 10.1 The contractual partner shall supply the test object to Phoenix Testlab on his own account and at his own risk. Upon request, the contractual partner shall collect the test object from Phoenix Testlab on his own account and at his own risk.
- 10.2 If the contractual partner does not meet his obligation to collect, Phoenix Testlab is entitled to send the test object of the contractual partner on the contractual partner's own account and own risk. Dispatch shall be effected at the discretion of Phoenix Testlab. The test object shall be carefully packed. Phoenix Testlab can accept no responsibility for damage and breakages occurring during transportation. The contractual partner must direct complaints concerning damage because of transportation directly to the carrier within the special applicable period. The contractual partner is responsible for taking out transport and any other insurance.
- 10.3 The contractual partner is obliged to dispose of remaining electronic scrap, the test object and accessories and packaging requiring proper disposal at his own expense. If disposal is to be effected by Phoenix Testlab at the request of the contractual partner, the contractual partner shall bear the costs.

11. Copyright/Publications

- 11.1 All copyrights and rights of joint authors to test reports, test results, calculations, illustrations etc. prepared by Phoenix Testlab shall remain the property of Phoenix Testlab.
- 11.2 The contractual partner of Phoenix Testlab may only use test reports, test results, calculations, illustrations etc. prepared within the framework of the order for the purpose for which they are intended in accordance with the Agreement.
- 11.3 It is not permitted to pass on to third parties test reports, test results, calculations, illustrations etc. prepared by Phoenix Testlab, or knowledge, information etc. acquired in connection with the performance, nor to publish any of the above, unless the parties to the Agreement have reached a separate written agreement concerning this.

12. Data protection

Phoenix Testlab shall process the data it has acquired through the business relationship in accordance with the Federal Data Protection Act, and is entitled to process the data about the contractual partner acquired through a business relationship, whether from the contractual partner himself or from third parties, as defined by the Federal Data Protection Act.

13. Assignment

The parties to the Agreement can assign rights and obligations arising from the Agreement, in full or in part, with the prior written approval of the other party.

14. Value-added tax (VAT) Single market Law

- 14.1 Intra-Community trade (VAT ID No. DE 162977933) as of 1.1.93. The buyer guarantees the correctness of the information concerning his name, his address and his VAT ID No., which he shall pass on to Phoenix Testlab without delay and without solicitation, if this has not already been done. He undertakes to inform Phoenix Testlab as well as the domestic fiscal authorities competent for him of any changes in his name, his address and his VAT ID No. If a consignment is treated as being liable to tax due to incorrect or incomplete information concerning his name, his address or his VAT ID No., the buyer shall reimburse the tax to be paid by Phoenix Testlab.
- 14.2 In the event of double taxation – acquisition tax in the country of the buyer, acquisition tax in Germany – the buyer shall pay back to Phoenix Testlab any excess tax.

15. Place of fulfillment and jurisdiction

- 15.1 The place of fulfillment and place of jurisdiction for both parties is 32825 Blomberg, Germany. This exclusive place of jurisdiction also applies for all existing and future claims arising from the business relationship, whether the party claimed on by way of action moves its residence or customary place of abode out of the area of valid of German law, or whether this is not known at the time of the action. The same applies in the event of claims being put forward by way of default action (§§ 688 ff. - Code of Civil Procedure). It is agreed that only the law valid in the Federal Republic of Germany shall be applicable. The utilization of the UN Sales Conversion (CISG) is barred.

16. Collateral agreements

Collateral agreements, modifications or supplements to these General Terms and Conditions or Agreements need to be confirmed in writing by Phoenix Testlab to be effective.

17. Final provisions

Should individual provisions of these Terms and Conditions be ineffective or not feasible, or should there be gaps in these Terms and Conditions, the effectiveness of the remaining provisions is not affected. Instead of the ineffective or not feasible provisions, the effective or feasible provision coming closest in economic terms to the purpose of the ineffective or not feasible provision is regarded as agreed upon.