

# General Terms and Conditions for Inspection and Analytical Services

## 1. GENERAL

- (a) Unless expressly agreed otherwise in writing, all offers or services and all contractual relationships arising therefrom between SGS Holding Deutschland B. V. & Co. KG, Heidenkampsweg 99, 20097 Hamburg, and the affiliated domestic companies within the meaning of §§ 15 et seq. AktG (German Stock Corporation Act) (each hereinafter referred to as "Company") and the client (hereinafter referred to as "Client") (hereinafter referred to as "Contractual Relations") shall be governed by these General Terms and Conditions for Inspection and Analytical Services (hereinafter referred to as "GTC").
- (b) These GTC apply only to Clients who are entrepreneurs within the meaning of § 14 BGB (German Civil Code), legal entities under public law or special funds under public law.
- (c) The written form agreed herewith between the Client and the Company in accordance with these GTC for the preparation and transmission of documents within the scope of their contractual relations (including for offers, acceptances, ancillary agreements, subsequent agreements) shall also be complied with if this is done electronically. In this respect, telecommunication is sufficient (cf. section 127 (2) BGB (German Civil Code), i. e. e. g. via the internet by unencrypted e-mail or other digital means of transmission (e. g. via Client interface, internet portal, etc.) or by fax.
- (d) The Client accepts that messages sent via the Internet without encryption can be lost, altered or falsified with or without the intervention of third parties, that conventional e-mails are not protected against access by third parties and that the Company therefore accepts no

liability whatsoever for the confidentiality and integrity of e-mails that have left the Company's area of responsibility. The Company accepts no liability for data security during transmission via the Internet, nor for data security if the data is under the sovereignty of the Client. This also includes malware occurring in connection with the electronic transmission of data and possible damage to the Client resulting therefrom.

- (e) Unless the Company receives written instructions to the contrary from the Client prior to the execution of the engagement, no persons other than the Client itself shall be entitled to give instructions to the Company, in particular with regard to the scope of the engagement or the issuance of audit reports or expert opinions (hereinafter: "Audit Reports"). The Client hereby irrevocably authorises the Company to forward investigation reports to third parties if this is requested by the Client or if, at the Company's discretion, this results from the circumstances, custom, usage or practice.
- (f) The Client's general terms and conditions of business or purchase as well as verbal subsidiary agreements shall only become binding and the subject matter of the contract with the prior written consent of the Company.
- (g) The Company may transfer the contractual relationship to a company affiliated with it within the meaning of §§ 15 et seq. AktG (German Stock Corporation Act) and the Client hereby consents to the transfer upon conclusion of the contractual relationship. These are exclusively the companies named in this Clause1(a).

## 2. PROVISION OF SERVICES

- (a) The Company shall provide its services as agreed with due care in accordance with the Client's specific instructions. In the absence of instructions, the following shall apply:
  - (i) the provisions of the Order Form or the Company's Standard Specification Sheet; and/or
  - (ii) the relevant regulatory requirements, trade customs, usages or practices and/or
  - (iii) such procedures as the Company deems appropriate for technical, operational and/or economic reasons.
- (b) All information in the investigation reports is derived from the results of inspection or analytical procedures applied in accordance with the client's instructions and/or from the assessment of such results based on the best technical standards, trade customs or practices or any other circumstances which, in the opinion of the Company, must be observed.
- (c) The company's test reports which deal with the testing of samples shall only comment on these samples and shall not make any statements about the rest of the delivery/lot from which the samples were taken. Samples within the meaning of these General Terms and Conditions shall also be deemed to be retained samples.
- (d) In the event that the Company is required by the Client to witness third party interventions, the Client acknowledges that the Company's responsibility is limited solely to being present at the time of the intervention and to witness the results

or to confirm the occurrence of the intervention. The Company shall not be responsible for the condition or calibration of the apparatus, instruments or measuring devices used by the third party or the methods of analysis employed or the qualifications, acts or omissions of the third party's employees or its results of analysis.

- (e) The Company's investigation reports shall exclusively reflect the facts ascertained at the time of the investigation within the framework of the specific instructions given by the Client or, in the absence thereof, within the framework of the investigation parameters determined in section 2 (a). The signed examination report (manually or electronically signed) is the only legally binding document (cf. Clause 2 (f) of these GTC). The Company is not obliged to refer to or report on values or facts that lie outside the specific instructions provided by the Client or the alternative test parameters pursuant to section 2 (a) of these GTC.
- (f) The Company shall make available the investigation report in agreement with the Client in digital form and/or in paper form.

In the absence of a corresponding vote, the company shall be free to provide the investigation report to the client in either digital or paper form, at its own discretion.

The investigation report submitted in paper form is an original.

If the investigation report is transmitted in digital form, it shall also be considered as an original for the purposes of Articles 3 and 17 b UCP 600/ERA 600 (Uniform Customs and Practice for Documentary Credits, ICC version 2007). If the investigation report is transmitted digitally, the Company accepts no responsibility for the digital form being sufficient for the Client's purposes.

If the examination report is sent to the client in digital form, this is done in a digitally signed PDF format. The Client can authenticate the investigation report in the document itself. If the examination report is generated via the SGSonSITE internet platform and made available to the Client, authentication can take place via SGSonSITE.

The digital examination report shall be transmitted via the Internet by

unencrypted e-mail or other digital means of transmission (e. g. via Client interface, Internet portal, etc.), cf. section 1 (c) of these GTC.

- (g) The Company shall be entitled to sub-contract all or part of the Services. It may disclose to the subcontractor all information necessary for the performance of the delegated services.
- (h) If the Company receives documents relating to contractual relationships between the Client and third parties or documents from third parties, such as copies of purchase contracts, letters of credit, bills of lading, etc., these shall only be regarded as information without extending or limiting the scope of the Company's duties or its agreed obligations.
- (i) The Company does not enter into the position of the Client or a third party through the performance of its services. The contract on which the service is based shall not affect any contractual relationships of the Client with third parties.
- (j) The Client shall bear the costs and the risk of the transport of samples, unless otherwise agreed. In the event of shipment by the Client, the sample material must be properly packed, taking into account any instructions given by the Company.
- (k) All samples shall be stored for a maximum period of 3 months, unless the nature of the samples requires a shorter storage period or the parties have agreed otherwise in writing on a longer storage period (e.g. due to legal or other requirements). For samples stored for longer than 3 months, the Client shall bear the agreed storage costs. After expiry of the storage period, the samples shall be disposed of at the Client's expense or, if a corresponding agreement exists with the Client, returned to the Client at the Client's expense and risk.

### 3. PROCESSING TIMES

- (a) The Company shall provide the services within the periods customary in the market. Dates and deadlines for the provision of services are only binding if and insofar as they are confirmed in writing by the Company in advance.
- (b) Compliance with dates and deadlines shall be subject to the timely receipt of all documents and samples to be supplied by the Client and

the timely fulfilment of the Client's duties to cooperate in accordance with section 4 of these GTC.

### 4. OBLIGATIONS OF THE CLIENT

The Client will:

- (a) ensure that the information, instructions and documents required for the performance of the contract are made available to the company in good time (at least 48 hours before the start of the agreed service);
- (b) grant the Company's representatives or its subcontractors access to all premises where the Services are to be performed and take all necessary steps to remove or remedy any impediment or interruption to the performance of the required Services;
- (c) provide, if requested, equipment and support persons to assist the Company in the performance of the contract;
- (d) ensure all necessary measures for the physical and legal safety of the working conditions, places and facilities in his area of responsibility during the performance of the services under his sole responsibility;
- (e) notify the Company in advance of any known risks or hazards, whether present or potential, which are or may be associated with the order, sample or investigation, such as the presence or possibility of radiation, toxic, harmful or explosive ingredients or materials, and environmental pollution or poisons. The Client shall be liable for any damage resulting from the hazardous nature of the Sample Material;
- (f) exercise all its rights and fulfil all its obligations under the contract or the law towards third parties.

### 5. PRICES AND PAYMENT CONDITIONS

- (a) The Client shall pay the Company the agreed prices for the deliveries and services. In the absence of a price agreement between the Company and the Client, the prices payable by the Client shall be determined in accordance with the Company's price lists (which may be subject to adjustment) in force at the time the services are provided. Unless otherwise agreed in writing, payment shall be due without deduction within 14 days of the date of the invoice. Payments shall be made to the account specified in the invoice without cash. Other methods of fulfilment and discounts shall only be granted if they have been agreed in writing. Payment by cheque is excluded. All prices are exclusive of the applicable statutory

value added tax and any travel and shipping costs. The Company may invoice costs for packaging and transport separately.

- (b) The Client shall be in default without a reminder. From the beginning of the default, the Company is entitled to demand statutory interest on arrears (among other things in accordance with § 288 BGB (German Civil Code)) and other damages caused by the default from the Client.
- (c) Claims of the Company may only be offset or a right of retention may only be asserted if the counterclaim of the Client is undisputed or has been finally determined by a court of law.
- (d) The Client shall bear all costs incurred in connection with the collection of the claim from, e. g. collection and lawyer's fees.
- (e) The Company is entitled and obliged to adjust the prices at its reasonable discretion in accordance with § 315 BGB (German Civil Code) (i. e. to increase, entitled and to reduce, obliged). The reason for such a price adjustment is exclusively a change in the costs which are decisive for the price calculation, in particular costs for energy (e. g. electricity, gas, fuels), wage and material costs as well as costs for the necessary preliminary services for the provision of the service. The company continuously monitors the corresponding cost development.

Increases in one type of cost may only be used for a price increase to the extent that they are not compensated by possible decreases in costs in other areas. When exercising its equitable discretion, the Company shall choose the respective points in time of a price adjustment in such a way that cost reductions are not taken into account according to standards that are less favourable for the Client than cost increases, i. e. that cost reductions have at least the same effect on prices as cost increases.

The Client has the right to have the exercise of equitable discretion reviewed by the courts in accordance with Section 315 (3) BGB (German Civil Code).

A price reduction on the part of the Company is possible at any time; a price increase, on the other hand, only becomes effective if the Company notifies the Client of the price

adjustment in text form at least six weeks before it is planned to take effect. In this case, the Client has the right to terminate the contract without notice at the time the price adjustment takes effect. In the price adjustment notification, the Company shall separately inform the Client of this. If it becomes apparent during the term of the contract that cost-relevant Client details have changed and/or will change or that the actual circumstances at the Client's premises do not correspond to the details previously notified to the Company, the Company may adjust the prices to the relevant changed circumstances at any time. In the event of unforeseen obstacles or additional costs in the provision of the services, the Company shall endeavour to inform the Client; it shall also be entitled to charge for the necessary additional expenditure. If the Company is partially or completely prevented from providing the services for reasons for which it is not responsible (in particular in the event of a breach by the Client of the obligations set out in section 4 of these GTC), the Company may demand the following payments from the Client:

- (i) the amount of all non-recoverable costs incurred by the Company; and/or
- (ii) the part of the agreed remuneration corresponding to the part of the services already rendered.

Invoices are usually sent by e-mail as a PDF file from our electronic mailbox (sender: de.billing@sgs.com).

## 6. TAX CLAUSE INTERNATIONAL SERVICES

- (a) This clause shall only apply if either the Client and/or the Company's subcontractor have their registered office outside Germany.
- (b) All prices and costs for services provided by the Company or an affiliated company within the meaning of §§ 15 et seq. AktG (German Stock Corporation Act) or a subcontractor do not include taxes. These include, but are not limited to, value added taxes or equivalent duties, taxes, in particular import duties, stamp duties, ancillary costs or withholding taxes. They also do not include any related liabilities (collectively hereinafter: "Taxes") charged to the Client under

applicable national law.

- (c) Any payment made by the Client shall be made free and clear of any withholding or deduction of any taxes. This shall not apply where such withholding or deduction is required by applicable law or applicable double taxation treaties. The Client shall promptly provide the Company with evidence of any such payment and copies of all documents produced in respect of any such payment.
- (d) The Parties shall use their best endeavours to obtain a refund of the deduction amounts or reimbursement of the respective tax. They shall assist each other in their obligations in this regard. Refunded taxes shall be reimbursed in accordance with the amounts due.

## 7. DISCONTINUATION OR TERMINATION OF SERVICES

The Company shall be entitled, immediately and without any liability on its part, to temporarily suspend the Services, to terminate them entirely or to terminate the Contract without notice in the event of:

- (i) Non-fulfilment by the Client of the obligations arising from the contractual relationships, which is not remedied within a ten-day period despite a corresponding warning;
- (ii) Cessation of payments or agreement to avert insolvency, in the case of payments by the Client that are already due and for which reminders have been sent several times, cessation of business operations or receivership on the part of the Client.

## 8. LIABILITY

- (a) The Company is neither an insurer nor a guarantor and declines to assume the associated responsibility.
- (b) Investigation reports shall be drawn up on the basis of the information, documents and/or samples provided by or on behalf of the client and shall be for the exclusive benefit of the client. The Client shall be responsible for drawing the necessary conclusions therefrom. Neither the Company nor any of its officers, employees or subcontractors shall be liable to the Client or any third party for any action taken or not taken on the basis of such investigation reports. Similarly, no liability shall attach if the investigations are based on unclear, incorrect, incomplete or misleading information provided by the Client.
- (c) The Company shall not be liable for

delayed, partial or complete non-performance of services if this results directly or indirectly from events beyond the Company's control (e. g. in the event of a breach of the Client's obligations specified in Section 4 of these GTC or in cases of force majeure). The Company shall be liable, limited to the foreseeable damage typical for the contract, for damage resulting from a breach of essential contractual obligations due to simple negligence; essential contractual obligations are those whose performance characterises the contract and on which the Client may rely. The liability of the Company due to simple negligence in the event of a breach of non-essential contractual obligations is excluded.

- (d) However, the liability of the Company pursuant to (c) above shall be limited to an amount of EUR 1,000,000.00 per case of damage. The Company shall only be liable for indirect or consequential damage if and to the extent that such damage is typical for the contract and was foreseeable at the time of conclusion of the contract.
- (e) The limitations of liability in this clause 8 do not apply to damages insofar as they are based on gross negligence or intent, as well as in cases of mandatory statutory liability (in particular under the Product Liability Act). The same applies to damages resulting from injury to life, body or health if the Company is responsible for the breach of duty.
- (f) A breach of duty by the Company within the meaning of this Clause 8 shall be deemed equivalent to a breach of duty by its legal representative or vicarious agent.

## 9. DEADLINES

- (a) In the event of claims for damages, the Client shall notify the Company in writing within three months of discovery of the circumstances giving rise to the damage.
- (b) In any case, claims for damages by the parties arising from breaches of duty by the other party shall become statute-barred after 24 months, calculated from the statutory commencement of the limitation period.

## 10. SECRET

The Client and the Company undertake to keep confidential the business and trade secrets received from the other party within the framework of the contractual

relationship, not to pass them on to third parties without the prior written consent of the other party and not to use them for their own purposes without authorisation. Information received within the framework of the contractual relationship shall be treated confidentially by the Company, unless it is publicly known or accessible, or it was already known to the Company, or it was disclosed to it by a third party without breach of a confidentiality obligation. Third parties within the meaning of this clause 10 are not affiliated companies within the meaning of §§ 15 et seq. AktG (German Stock Corporation Act) and no subcontractors.

## 11. INTELLECTUAL PROPERTY AND GRANTING OF RIGHTS OF USE

- (a) The Company reserves all rights to the data obtained in the course of the services rendered and to the investigation reports produced.
- (b) The Client may only use the investigation reports produced within the framework of the contractual relations with all tables, calculations and other details after full payment of the remuneration and only for the contractually agreed purpose. However, the client is not permitted to change or edit the investigation reports or to use them only in part. The disclosure of investigation reports to authorities or other public bodies is permissible if and to the extent that this is required for the contractually stipulated purpose or is prescribed by law. Any publication or reproduction of the investigation reports, in particular via the Internet or for advertising purposes, as well as any other disclosure to third parties, shall only be permitted with the prior written consent of the Company.
- (c) The Company reserves its rights to all test methods and/or procedures and to all devices or equipment which it develops itself or uses generally, unless these have been developed exclusively for the Client in the course of providing the work results in accordance with a written agreement.

## 12. DATA PROTECTION

In the course of providing the service, the Company and the Client may mutually gain access to each other's personal data. The parties shall process the personal data only for the fulfilment

of the contractual obligations under their own responsibility. Any further processing that constitutes a change of purpose is prohibited. The Company and the Client shall (i) process the personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (GDPR) and other legal obligations and (ii) comply with the information requirements of Articles 13 et seq. of the DS-GVO (GDPR). For this purpose, the Company shall provide the Client with the data protection information for Clients, which is available at [Datenschutz bei SGS | SGS Deutschland \(sgsgroup.de\)](https://www.sgsgroup.de/de-de/privacy-at-sgs) (<https://www.sgsgroup.de/de-de/privacy-at-sgs>). The Client undertakes to inform its employees working within the framework of the contractual relationship of this and to make this data protection information available to them.

## 13. FORCE MAJEURE

The Company shall not be liable for impossibility of performance of the contract or for delay(s) in performance to the extent caused by force majeure or other events not foreseeable and/or avoidable at the time of the conclusion of the contract (e.g. disruptions of operations of any kind, difficulties in procuring materials and/or energy, transport delays, strikes, lawful lock-outs, shortage of labour, shortage of energy (e.g. gas shortage) or raw materials, difficulties in obtaining necessary official permits, pandemics (e.g. COVID-19 pandemic or epidemics, governmental regulations), e.g. gas shortage) or raw materials, difficulties in obtaining necessary official permits, pandemics (e.g. COVID 19 pandemic) or epidemics, official measures or the non-delivery, incorrect or late delivery by suppliers despite a congruent hedging transaction concluded by the Company (if possible)) for which the Company is not responsible. The Company shall notify the Client of this without delay. As soon as the impeding circumstances cease to exist, the Company shall notify the Client accordingly and resume performance without delay. If such aforementioned events make it substantially more difficult or impossible for the Company to perform the service and the hindrance is not only of a temporary nature or if the duration of the hindrance lasts for more than three (3) months, the Company shall be entitled, at its own discretion, to withdraw from the contract or to terminate it in whole or in part. If an aforementioned impediment is of temporary duration, the deadlines for the performance of the service(s) shall be extended or, in case of doubt, the performance dates shall be postponed by at least the duration of the impediment plus a



reasonable restart period (e. g. after interruption of the gas supply).

In the event of termination, the Client shall remunerate

of society the following:

- (i) the expenses incurred by the Company due to the termination of the execution of the contract;
- (ii) a partial amount of the agreed remuneration corresponding to the part of the services actually rendered by the Company.

Otherwise, the Company's claim to remuneration shall lapse. The Client shall not be entitled to any further claims for performance or damages in the event of the Company being prevented from performing in connection with one of the aforementioned events.

#### 14. MISCELLANEOUS

- (a) If one or more provisions of these GTC are found to be invalid or unenforceable in whole or in part, this shall not affect or impair the validity or enforceability of the remaining provisions.
- (b) During the provision of the Services and for a period of one year thereafter, the Client shall not directly or indirectly solicit, encourage or attempt to solicit any employee of the Company by means of offers. The use of the Company's name and/or registered trademarks for advertising purposes of any kind is not permitted unless prior written consent has been given by the Company.

- (c) The Company may name the cooperation with the Client as a reference. The Client may object to the use in writing within four (4) weeks of the establishment of the contractual relationship.

#### 15. APPLICABLE LAW, PLACE OF JURISDICTION, DISPUTE RESOLUTION

- (a) All disputes arising from the contractual relations between the Client and the Company shall be subject to the application and interpretation of the law of the Federal Republic of Germany, excluding the provisions of private international law.
- (b) The exclusive place of jurisdiction for all such disputes shall be the registered office of the Company. The Company may also sue the Client at his general place of jurisdiction.

## WHEN YOU NEED TO BE SURE

