General Terms and Conditions (GTC)

General Terms and Conditions of Delivery, Service and Payment

1. Scope of application

1.1 Contracts with Testo Industrial Services GmbH and its affiliated companies pursuant to Section 15 AktG (hereinafter referred to as „TIS“) shall be based exclusively on the following terms and conditions, unless deviations have been expressly confirmed in writing by Testo Industrial Services. Other contractual conditions shall not apply even if Testo Industrial Services does not object to them and the contract is executed.

1.2 These GTC only apply to contracts with companies in accordance with Section 14 of the German Civil Code (BGB) or legal entities under public law and special funds under public law in accordance with Section 310 (1) BGB.

1.3 These GTC apply to the present and all future transactions.

2. Conclusion of contract

2.1 Our offers are subject to change. Customer orders are only binding for us if we confirm them or fulfil them by providing the service or delivery; verbal collateral agreements are only binding if we confirm them in writing.

2.2 Our employees are not authorised to make verbal collateral agreements or give verbal promises that go beyond the content of the written contract or amend these General Terms and Conditions to our disadvantage.

3. Prices

3.1 Testo Industrial Services prices are ex works Kirchzarten plus packaging and transport. Our prices for services are net prices and do not include the applicable value added tax. Maintenance and repair times as well as time-consuming removal and installation work are charged separately on an hourly basis.

3.2 If material and/or labour costs change between conclusion of the contract and performance of the service, we shall be entitled to adjust our prices accordingly.

3.3. If, in the course of an ordered calibration service, it is determined that the device sent in is defective or unusable and neither a repair nor a replacement is ordered through us, we will charge a flat-rate fee for the calibration process that nevertheless takes place in accordance with our current price list. This lump sum is not applicable if the customer subsequently orders a repair or replacement through us.

4. Terms of payment

4.1 Payments are to be made within 30 days of the invoice date, without any deductions and free to our paying agent. If a set payment deadline is exceeded, Testo Industrial Services shall charge interest at a rate of 9 % above the base rate, subject to the assertion of further damages.

4.2 In the event of default in payment and justified doubts as to the solvency or creditworthiness of the contractual partner, Testo Industrial Services shall be authorised – without prejudice to other rights – to demand securities or advance payments for outstanding deliveries and services or to make deliveries and services only against cash on delivery or advance payment and to declare all claims arising from the business relationship immediately due and payable.

4.3 Only undisputed or legally established claims shall entitle the contractual partner to offset or withhold payment.

4.4 The customer may not assign claims against Testo Industrial Services.

5. Delivery and performance deadlines

5.1 Delivery and performance deadlines are only binding for us if they are expressly agreed in writing.

5.2 Compliance with agreed delivery and performance deadlines shall be determined by the time at which the object of performance is ordered for transport or the notification of readiness for dispatch.

5.3 Unforeseeable events or circumstances beyond the control of Testo Industrial Services, for which Testo Industrial Services is not responsible and which could not be prevented or overcome by any other reasonable means (e.g. floods, fire damage, other natural disasters, shortages of raw materials or energy, labor disputes, civil unrest, armed or terrorist conflicts, pandemics, outbreaks, epidemics, or governmental measures), shall, upon immediate notification of the contractual partner, entitle Testo Industrial Services to postpone performance of the contractual obligations for the duration of the force majeure event or to withdraw from the contract in whole or in part with respect to the unperformed portion. This shall not apply if Testo Industrial Services has assumed the procurement risk. In cases of force majeure, the customer shall not be entitled to withdraw from the contract.

5.4 If, in such a case, it cannot be foreseen that we will be able to perform the services within a period of two months, both contracting parties shall be entitled to withdraw from the contract. The same shall apply if the impediments continue to exist after the expiry of two months from the date of our notification. However, if the impediments were already foreseeable to us at the time of conclusion of the contract, we shall not be entitled to withdraw from the contract.

5.5 In the event of a delay in delivery, our liability shall be limited to 5 % of the value of the goods in the event of slight negligence.

5.6 Partial deliveries are permissible insofar as this is reasonable for the customer.

6. Passing of Risk/Acceptance

6.1 In the case of deliveries and services, the risk of accidental loss and accidental deterioration of the subject matter of the service shall pass to the customer as soon as the goods or the service are handed over for transport or, in the case of work performances, upon acceptance. This shall apply irrespective of whether shipment is made from the place of performance and irrespective of who bears the transport costs. If the customer is in default of acceptance, the risk shall pass upon notification of readiness for shipment/completion of the performance.

6.2 The shipment of devices to our premises for calibration and their return after calibration shall be at the customer's risk. Any liability on our part for loss, destruction, or damage to the devices during transport is excluded. In all other respects, the statutory provisions and the general provisions on limitation of liability and damages pursuant to Clause 7 shall apply.

6.3 If a formal acceptance has been agreed, it shall take place within a period of eight (8) days. Each party may, at its own expense, engage an expert. A formal acceptance may also be carried out in the absence of one party, provided that the date has been agreed and the other party has been invited with reasonable notice. In such case, the result of the acceptance shall be communicated to the other party without undue delay.

6.4 If no formal acceptance is required, the performance shall be deemed accepted at the latest upon expiry of eight (8) calendar days after receipt of written notification of completion of the work. The same shall apply if the customer has used our performance for more than six (6) working days.

7. Retention of Title

7.1 The goods sold shall remain our property until all claims arising from the business relationship with the customer have been settled in full.

7.2 The retention of title shall also extend to products resulting from the processing, mixing, or combining of our goods with other items. In such cases, we shall acquire co-ownership in the ratio of the value of the goods subject to retention of title (invoice value) to the value of the other items. If one of the items is to be regarded as the principal item, the customer shall transfer to us co-ownership in the ratio of the value of the goods subject to retention of title (invoice value) to the value of the other combined items. The customer shall hold the new item in safekeeping for us free of charge with respect to our co-ownership share. If the goods subject to retention of title are resold as part of the new product, the advance assignment agreed in Clause 7.3 shall apply only up to the invoice value of the goods subject to retention of title.

7.3 The customer shall be entitled to resell the goods subject to retention of title in the ordinary course of business, provided that the customer is not in default of payment. Pledging or transfer by way of security is not permitted. The customer hereby assigns to us, by way of security, any claims arising from the resale or from any other legal grounds (in particular insurance claims or claims arising from tort). The customer is authorized, subject to revocation, to collect the assigned claims in its own name for our account. Upon request, the customer shall disclose the assignment and provide us with all information necessary for the collection of the claims.

7.4 Any third-party access to the goods subject to retention of title or to the claims assigned pursuant to Clause 7.3 shall be notified to us by the customer without undue delay by registered mail.

7.5 If the realizable value of the securities to which we are entitled under the above provisions exceeds our claims by more than ten percent (10 %), we shall be obliged, at our discretion, to release securities to the extent of the excess value.

8. Technical application advice

8.1 If the contractual partner receives technical application advice in writing or verbally, this is to be understood as an explanation of the best possible use. In no case does it release the contractual partner from the obligation to convince himself of the suitability of our products for the purpose intended by him.

8.2 Testo Industrial Services must be informed immediately and in writing in the event of potentially incorrect technical application advice after the breach of duty has been established. The statutory provisions and the general provisions in Clause 10 on limitation of liability and damages shall apply.

9. Claims for defects

9.1 If the goods delivered by us or services provided by us under a contract for work and labour prove to be defective, the customer's claims for defects shall be governed by the statutory provisions, with the proviso that the customer may initially only demand subsequent service. We will either replace the rejected goods/services or carry out repair work at our discretion.

9.2 If the subsequent fulfilment fails, the customer can reduce the remuneration without setting a deadline or withdraw from the contract in the case of not only insignificant defects.

9.3 The warranty period for defects in the goods delivered by us or services rendered under a contract for work and labour is 12 months from the transfer of risk.

9.4 The warranty for defects in used goods is excluded, unless otherwise agreed individually. Exceptions to this are cases in which we have assumed a guarantee or fraudulently concealed a defect.
9.5 If the customer has carried out interventions, modifications or repair work on the system himself, he is obliged to prove that the defect is not due to this.
9.6 No warranty claims shall apply to services provided under a service contract.
9.7 Claims for damages shall remain unaffected in accordance with Clause 10.

10. Liability

10.1 Testo Industrial Services shall be liable for damages, irrespective of the legal grounds, only in the following cases:
- pursuant to the German Product Liability Act (Produkthaftungsgesetz);
- in the event of non-compliance with a guarantee assumed by Testo Industrial Services;
- in cases of culpable injury to life, body, or health;
- in cases of fraudulent intent (arglist);
- in the event of intentional or grossly negligent breach of essential contractual obligations by executive bodies or senior executives, without limitation; in the event of such a breach by non-executive employees or vicarious agents, however, liability shall be limited to the foreseeable damage typical for the contract;
- in the event of slightly negligent breach of essential contractual obligations, liability shall in any case be limited to the foreseeable damage typical for the contract;
- in the event of intentional or grossly negligent breach of non-essential contractual obligations by executive bodies or senior executives, without limitation; in the event of such a breach by non-executive employees or vicarious agents, however, liability shall be limited to the foreseeable damage typical for the contract;
- where the liability of Testo Industrial Services is limited to the foreseeable damage typical for the contract, such liability shall be capped at an amount of EUR 1,000,000.00 (in words: one million euros), which shall be deemed to be the maximum limit.

10.2 Warranty claims as well as claims for damages shall be excluded if the damage is attributable to a modification of the subject matter of the contract by the customer or by third parties engaged by the customer, or if the subject matter is used for purposes other than those contractually agreed.
10.3 In all other respects, claims for damages arising from breaches of duty shall be excluded.

11. Use Accreditation symbol on reports/certificates

11.1 The use of the accreditation symbol of the German Accreditation Body on reports/certificates is only legally possible for accredited calibrations or tests (DAkkS). This guarantees that these calibrations or tests were performed within the scope of accreditation of Testo Industrial Services GmbH and are therefore covered by the European Accreditation Multilateral Agreement.
11.2 Works or ISO reports/ISO certificates do not use an accreditation symbol of the German Accreditation Body and are not covered by the European Accreditation Multilateral Agreement.

12. Confidentiality

12.1 The Parties shall keep all Confidential Information secret and take all necessary measures to ensure that information of which they become aware is protected from misuse, unauthorised disclosure to third parties, copying, use, unauthorised access and unauthorised use and that access to any embodiments, copies or other reproductions is controlled.
12.2 "Confidential Information" within the meaning of this Agreement means all business, commercial, financial, technical or other facts, records, documents (also in the technical sense), plans, films, templates, production and procedural processes, workflows, organisational plans, lists, data flow charts, internal rules, evaluations or other processes of any, irrespective of the storage medium and the way in which the contracting parties obtain knowledge thereof. The information is of a type which is of commercial interest to the respective contracting party (information provider) and which the contracting parties become mutually aware of in the course of their co-operation. Confidential information also includes all copies made thereof, self-generated materials and data as well as all extracts and summaries thereof.
12.3 The obligation of confidentiality shall not apply to information that:
- a) was publicly known or generally accessible at the time of receipt;
- b) became publicly known after receipt through no fault of the receiving party;
- c) was already known to the receiving party at the time of receipt; and/or
- d) became known to the receiving party after receipt from a third party entitled to disclose such information; and/or
- e) was independently developed by an employee of the other contracting party who had no access to the disclosed confidential information.

12.4 If a party relies on the existence of one of the above exceptions, it shall bear the burden of proof for its requirements.
12.5 Transmission to third parties is only permitted with the prior written consent of the other contracting party in individual cases. In this case, the third party is obliged to confirm the confidentiality agreement as binding for itself by signing it. Any opening, processing or utilisation of data and information for other purposes is prohibited.

13. Final provisions

13.1 These General Terms and Conditions may be amended unilaterally by Testo Industrial Services at any time. The contractual partner shall be informed in writing of any amendments to the General Terms and Conditions. In the event of an amendment, the contractual partner shall be entitled to object within fourteen (14) calendar days after receipt of the amendment. If no objection is received by Testo Industrial Services within this period, the contractual partner's silence shall be deemed to constitute consent. Any other amendments or supplements to a contract shall require the consent of both parties and shall be made in text form (e.g. email). Any deviation from this requirement shall also require text form.
13.2 Both contracting parties agree that all rights and obligations of the contractual partners in connection with this agreement shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall be excluded.
13.3 To the extent legally permissible, the exclusive place of jurisdiction for all legal disputes shall be Freiburg im Breisgau or, at our discretion, the general place of jurisdiction of the customer.
13.4 Should individual provisions or parts of this contract be or become invalid or unenforceable, the remaining provisions and parts of the contract shall remain in full force and effect. In place of the invalid provision, unless mandatory statutory law applies, a provision shall be deemed agreed which comes closest to the economic intent of the invalid provision. The same shall apply in the event of a contractual gap.

79199 Kirchzarten, April 2026

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