

General Terms and Conditions of OFI Technologie & Innovation GmbH (OFI GmbH)

1. General information

- 1.1. OFI GmbH provides technical and scientific services in the form of expert opinions, tests, findings, certifications, analyses, investigations, inspections / monitoring, remediation planning, measurements/laboratory services, consultancy/concept development and develops services with associated products in the field of new technologies as well as services for research and development.
- 1.2. OFI GmbH only concludes contracts subject to these "General Terms and Conditions" (GTC). The General Terms and Conditions of the business partner are hereby rejected. Deviating, contradictory general terms and conditions of a business partner shall not be binding on OFI GmbH even if reference is made to them in the business partner's letter of acceptance and OFI GmbH does not explicitly object to them again upon receipt of the letter of acceptance.
- 1.3. Verbal agreements or ancillary agreements that deviate from these GTC shall only be effective if they have been recognised by OFI GmbH in writing.
- 1.4. The GTC agreed for an initial order shall apply - until revoked or amended by OFI GmbH - also to all future and subsequent orders and contracts concluded. The validity of purchasing and other terms and conditions of the client is hereby excluded for the duration of the business relationship.
- 1.5. Insofar as the contracts are concluded with consumers pursuant to the Austrian Consumer Protection Act (KSchG), inalienable statutory provisions shall take precedence over these GTC.

2. Subject matter of the contract and execution of the order

- 2.1. The object of an order are the services offered by OFI GmbH. Offers from OFI GmbH are always subject to change and are non-binding. A mutually binding contract shall only come into existence upon written acceptance, written order confirmation or the start of performance by OFI GmbH (receipt of the written order confirmation from OFI GmbH by the client).
- 2.2. Unless otherwise agreed, the contractual services shall be provided in compliance with the regulations and the state of the art applicable at the time the contract is concluded. OFI GmbH accepts no liability for the correctness or suitability of the laws, guidelines, standards and regulations on which the orders are based. OFI GmbH shall be authorised to determine the method or modalities of the examination or testing at its own discretion, unless contrary agreements have been made in writing or unless mandatory regulations require a specific procedure.
- 2.3. OFI GmbH is also authorised to commission subcontractors for testing, inspections and certifications for order processing.
- 2.4. The scope of OFI GmbH's services shall be specified in writing when the order is placed. Should necessary changes or minor overruns of the agreed order volume occur during the contractual execution of the order, OFI GmbH shall be authorised to make such changes without prior notification and written order, provided that the agreed net fee is not exceeded by 15%. If necessary modifications exceed 15 % of the order total, a written agreement must be secured before additional services are provided. If the last agreed fee increases by more than 50% due to necessary modifications and changes to the scope of the order, the client shall be entitled to withdraw from the contract within three days of notification of the new extent of the fee. However, the client must pay compensation in the amount accrued for the scope of services already provided.
- 2.5. The client is obliged to make every reasonable effort to provide and submit the required samples, documents or authorisations in good time. If the client fails to fulfil these obligations despite mutually agreed deadlines and dates, OFI GmbH may withdraw from the contract. In this case, OFI GmbH shall be entitled to claim damages for non-fulfilment.

3. Deadlines, default, impossibility

- 3.1. The processing deadlines announced by OFI GmbH are non-binding, unless their binding nature has been explicitly agreed in writing. Delays in meeting non-binding deadlines and dates shall not entitle the client to assert claims, irrespective of the legal title.
- 3.2. The term of binding deadlines shall only commence upon full compliance with all contractual points and conditions of the object of performance and shall end upon delivery or transfer of the end product by OFI GmbH. They shall lose their binding force if the client is in default with their obligations under these GTC for whatever reason.
- 3.3. Delays in performance due to force majeure and due to circumstances that are not within the sphere of OFI GmbH and that make the provision of services significantly more difficult or impossible- including, but not limited to strikes, lockouts, official orders, natural disasters, even if these occur at suppliers or their subcontractors - shall not be the responsibility of OFI GmbH, even in the case of bindingly agreed processing periods and deadlines. OFI GmbH may postpone the provision of services for the duration of the delay that has occurred, or withdraw from the contract in full or in part due to the part of the order that has not yet been fulfilled. In the event of the above delays in performance or cancellation of the contract by OFI GmbH, the client shall not be entitled to assert any claims as a result.

This shall also apply if the events occur at a time when OFI GmbH is already in default. In the event of cancellation, OFI GmbH shall be entitled to invoice the client for any partial services provided up to that point at the agreed prices.

- 3.4. By providing its services, OFI GmbH does not assume any obligations incumbent on the client to comply with legal or official regulations.

4. On-site services, supplies and aids

- 4.1. If services have to be provided outside the premises of OFI GmbH, the client shall ensure unhindered access (to all relevant objects). The client shall take all necessary precautions to protect and safeguard the rights of third parties in the case of on-site services.
- 4.2. The costs for the purchase of aids that are not part of the standard equipment, but are necessary for the execution of the contract, shall be borne by the client.
- 4.3. The client shall inform OFI GmbH comprehensively and in good time of any hazards at the place of use and any necessary protective measures.
- 4.4. The provision (connection and supply) of water, electricity, lighting to the required extent and working scaffolding as well as safety equipment required for the professional execution of the work covered by the contract must comply with the legal regulations. The costs for this shall be borne by the client, who must also ensure the provision of these on site in good time.

5. Warranty

- 5.1. OFI GmbH's warranty shall only cover the services ordered in accordance with clause 2.
- 5.2. OFI GmbH's warranty obligation shall initially be limited to remediation within a reasonable period of time. If the remediation fails, i.e. if it is impossible or unreasonable for the client or OFI GmbH, the client shall be entitled to demand a lowering of the fee (price reduction). Rescission due to insignificant, irreparable defects is excluded. In this case, only an appropriate price reduction will be made.
- 5.3. The client shall inspect the work or services of OFI GmbH immediately after delivery and shall notify OFI GmbH immediately of any defects without delay, but in any case within 7 (seven) calendar days of handover of the work (expert opinion, test report, etc.) in writing, failing which any warranty shall be excluded.
- 5.4. Hidden defects must be reported in writing immediately after their discovery, but within the warranty period. Notices of defects shall not entitle the client to withhold partial or complete instalment amounts.
- 5.5. The client's warranty claims shall be limited, at OFI GmbH's discretion, to remediation or lowering of the fee (price reduction).

- 5.6. The client's warranty claims shall expire one year after the work has been handed over by OFI GmbH. The warranty period shall not be extended or interrupted by remediations or attempts at remediation, even if these take place outside the agreed warranty period.
- 5.7. Claims for damages and claims based on and arising from disputes relating to errors based on any defective workmanship on the part of OFI GmbH are excluded.

6. Liability

- 6.1. OFI GmbH shall only be liable for damages - regardless of the legal basis - if these are personal injuries, or if OFI GmbH has caused these damages wilfully or through gross negligence, or if OFI GmbH has breached an essential contractual obligation through gross negligence. In the event of a breach of material contractual obligations, OFI GmbH shall only be liable for the foreseeable damage typical of the contract at the time the contract was concluded.
- 6.2. OFI GmbH vouches for the application of scientific diligence and compliance with the state of the art, but not for the actual achievement or success of a determined result/success of the services in accordance with clause 1.1 of these GTC.
- 6.3. Insofar as OFI GmbH is liable for direct damages caused by gross negligence in the event of a breach of material contractual obligations in accordance with the above point 6.1, their obligation to pay compensation shall, however, be limited to EUR 75,000 per claim.
- 6.4. "Material contractual obligations" are those obligations that protect material legal positions of the client which the contract grants them according to its content and purpose.
- 6.5. Liability for damages caused by the breach of insignificant contractual obligations due to slight negligence is excluded. Those contractual obligations whose fulfilment makes the proper execution of the contract possible in the first place and on compliance with which the client may rely are also material.
- 6.6. Warranty claims and claims for damages for which OFI GmbH shall be liable shall only apply if the client has immediately notified OFI GmbH in writing of any recognisable damage and has specified it.

Claims for damages by the client shall be excluded if they are not asserted in court within a period of three months after rejection by OFI GmbH or their asset damage insurance.
- 6.7. All possible claims for damages by the client against OFI GmbH (except in the case of intent on the part of the executive bodies/managing employees) shall lapse within one year of the client becoming aware of its claim, unless the GTCs stipulate a shorter limitation period elsewhere or the law.
- 6.8. OFI GmbH shall in no event be liable for consequential damages, in particular not for loss of profit, business interruption damages, loss of production, loss of information or data, other indirect damages or financial losses. Any legal liability that may nevertheless apply is in any case subject to all the restrictions set out in clause 6 under "Liability". Damage compensation for the destruction of data or software is excluded. The client must always take precautions for their own data backup and data protection.

7. Terms of remuneration and payment

- 7.1. Unless a fixed price or another basis of assessment has been explicitly agreed, remuneration shall be based on OFI GmbH's expenditure and the prices of OFI GmbH valid at the time of service provision. Statutory value added tax at the currently applicable rate shall be added; it shall be shown separately on the invoice. Any additional costs and expenses (including travelling expenses, interpreting costs, transport and freight charges, customs duties) shall be borne by the client and shall be added to the fee.
- 7.2. OFI GmbH is authorised to invoice advance payments or the entire amount in advance, in particular for new or foreign clients. Partial invoices can be issued for services already rendered. The issuing of a partial invoice does not represent the complete billing of the order. Payments are due in accordance with the agreed payment schedule or the agreed payment term.
- 7.3. If no payment plan has been agreed, the fee invoiced in accordance with 7.1. and/or the fee invoiced in the final invoice after acceptance of the work shall be due according to the due date specified in the invoice. Payments are to be made without deduction to the account of OFI GmbH (IBAN and BIC), stating the invoice number.

- 7.4. In the event that no payment plan has been drawn up, OFI GmbH shall be authorised to issue invoices on account to the client at cost.
- 7.5. Complaints about invoices from OFI GmbH must be made in writing within a limitation period of 14 days after receipt of the invoice.
- 7.6. Duplicate invoices or subsequent amendments to invoices that are to be represented or requested by the client shall constitute chargeable services by OFI GmbH. The due date of the invoice is not affected by this.
- 7.7. If OFI GmbH is unable to provide its services because the client - despite being requested to do so - has not supplied documents or materials to be provided by them within a reasonable period of time, OFI GmbH shall be entitled to withdraw from the contract and issue a final invoice.
- 7.8. OFI GmbH may declare all fee claims - even those deferred - immediately due and payable, if the payment plan has not been adhered to by the client. OFI GmbH is also authorised to perform outstanding services only against advance payment or to withdraw from the contract - by setting a reasonable grace period - and to claim damages. The above provisions shall also apply if OFI GmbH becomes aware of circumstances that are likely to reduce the solvency or creditworthiness of the client.
- 7.9. Services to foreign clients shall only be provided against prior payment in full, unless otherwise agreed (including the payment of reasonable advances on costs). In the case of such an agreement, OFI GmbH shall be entitled to demand a security deposit in the form of a bank guarantee in accordance with the terms and conditions of OFI GmbH. Payment and the bank guarantee must be made in euros.
- 7.10. If an agreed payment plan is exceeded, the client shall be deemed to be in default even without further reminders. OFI GmbH shall be entitled to charge interest on arrears in the amount of 9.2% above the base interest rate to entrepreneurs, as well as additional compound interest and interest on arrears in the amount of 4% to consumers, pursuant to clause 1 of the Consumer Protection Act (KSchG). Furthermore, reminder costs in the amount of EUR 40 gross per reminder.
- 7.11. Furthermore, the client undertakes to reimburse OFI GmbH for the actual collection and recovery costs and expenses incurred as a result of its default in payment and necessary for the appropriate prosecution. This includes, without prejudice to an obligation to reimburse costs under procedural law, in particular the extrajudicial costs, the reminder costs, the costs of a debt collection agency (in accordance with the remuneration for debt collection services valorised in accordance with the regulation of the Federal Ministry of Economic Affairs of Federal Law Gazette 141/96, as amended) and valorised in accordance with § 4 para. 2 of this ordinance) as well as the costs of intervening lawyers, insofar as these were expedient and necessary for legal prosecution.
- 7.12. The client shall not be entitled to offset claims - of any kind whatsoever - unless these have been legally established by a court or recognised by OFI GmbH in writing.
- 7.13. Several joint principals are jointly and severally liable.

8. Confidentiality and copyright

- 8.1. OFI GmbH shall be authorised to make transcripts or copies of written documents that are provided to them for inspection and that are relevant to the execution of the order and to include them in their files.
- 8.2. Insofar as expert opinions, test results, calculations and the like are produced in the course of the execution of the order, which are subject to copyright protection, OFI GmbH shall grant the client a right of use thereto free of charge, which cannot be transferred to third parties, insofar as this is necessary for the contractually agreed purpose. Further rights are not transferred, in particular the client is not authorised to modify or edit expert opinions, test results, calculations, etc., not even in extracts. Any - even excerpts - publication or reproduction for advertising purposes is in any case prohibited and requires the prior written consent of OFI GmbH in each individual case.

The client shall be responsible for compliance with the statutory provisions when passing on, utilising and/or publishing the result of the service. The client shall notify OFI GmbH immediately of any infringements of industrial property rights of which they become aware, including by third parties. The client shall indemnify and hold OFI GmbH harmless against any claims that third parties may raise.

- 8.3. Employees and contractors of OFI GmbH as well as the clients shall not use, disclose or utilise business and trade secrets that come to their knowledge in the course of their work outside of the processing of the order.

- 8.4. The duty of confidentiality - for employees and contractors of OFI as well as for clients - shall remain in force even after termination of the contract and the cooperation.

9. Data protection

- 9.1. OFI GmbH also collects, stores, processes and utilises personal data of the client exclusively for the purpose of order processing. Data is processed and used exclusively in accordance with the General Data Protection Regulation (EU), the Data Protection Act (DSG) and the associated regulations. Further details can be found in OFI GmbH's privacy policy (<https://www.ofi.at/en/privacy>).

10. Transport risk and storage of test material

- 10.1. The risk and costs for the freight and transport of test material and material samples to and from OFI GmbH shall be borne by the client, who must organise the transport. Transport must be agreed with OFI GmbH in advance. Test material is only accepted during the opening hours of OFI GmbH without exception. The client shall bear all costs, expenses, charges (including customs duties), labour costs and personnel costs associated with the freight and transport of test material to and from OFI GmbH. Unless otherwise agreed, test material that has been destroyed or damaged during tests and inspections shall be at the free disposal and disposition of OFI GmbH. Test material that has not been destroyed shall be stored by OFI GmbH for four weeks after completion of the test and shall become the unconditional property of OFI GmbH unless otherwise agreed or the client has not submitted a follow-up request or organised the return transport by this time.
- 10.2. If test material or material samples cannot be handed over to the client or another responsible body, a reasonable storage fee may be charged for storage after completion of the tests. Non-destroyed test material shall be stored by OFI GmbH for 4 weeks after completion of the test and shall, unless otherwise agreed or the client has not submitted a request for succession by this time or has not organised return transport, become the unconditional property of OFI GmbH.
- 10.3. Alternatively, the client shall be obliged, following a corresponding request by OFI GmbH, to immediately remove any test material that is not required or to immediately accept returned test material. The costs for transport and logistics shall be borne by the client.
- 10.4. Tests can lead to the destruction of or damage to the test object. OFI GmbH accepts no liability for damage to test material that occurs during inspections or tests or damage that occurs during storage.
- 10.5. The client shall bear the burden of proof that defects and damage that have occurred are not due to improper handling or damage during transport.
- 10.6. The client shall bear the burden of proof that defects and damage occurring during the storage of test material and material samples are the fault of OFI GmbH.
- 10.7. The client shall be liable for all costs and damages arising from the delivery or provision of an unsuitable test sample (including damaged, incorrectly packaged test samples). Furthermore, for the costs/expenses of return transport or disposal of the test sample as well as for damage and consequential damage to the facilities, equipment and systems used by OFI GmbH.

11. Retention of title

- 11.1. The client shall only obtain rights to the results upon full payment of the agreed fee. In the event of late payment by the client, OFI GmbH shall be authorised to prohibit the use of the results and to withhold all reports and documents issued.
- 11.2. In the event of the resale of rights to the contractual results, the client shall assign all rights arising from the resale to OFI GmbH with material effect until the agreed remuneration has been paid in full.
- 11.3. The client may neither pledge OFI GmbH's claims to ownership and use of the work nor transfer ownership by way of security.

12. Statute of limitations

- 12.1. Claims of the client on a contractual basis and on the basis of tortious claims shall expire after 12 months from gaining knowledge of the damage.
- 12.2. The limitation period for claims due to defects shall commence at the time of the agreed or - if no agreement has been made regarding the time of handover - the actual handover of the result or report. If no qualified defects are reported, results shall be deemed accepted no later than 1 month after delivery.

13. Termination or cancellation for cause

- 13.1. If the solvency or creditworthiness of the client is permanently impaired (e.g. for more than two months) after conclusion of the contract, OFI GmbH shall be entitled to withdraw from the contract or to amend the terms of the contract accordingly.
- 13.2. Both contracting parties are entitled to terminate / cancel the contract with immediate effect by registered letter for cause. An important reason applies in particular if the opening of insolvency proceedings against the assets of the other contractual partner is rejected due to a lack of assets to cover the costs or if the other contractual partner breaches material contractual obligations, in particular the payment obligations (e.g. default on payment by more than 14 days).

14. Loyalty and non-solicitation agreement

- 14.1. The contracting parties are obliged to mutual loyalty. The client shall refrain from any enticement or employment (whether self-employed or employed), including via third parties, of employees of OFI GmbH and of employees of the shareholder of OFI GmbH or its affiliated companies and organisations who have contributed to the processing of the order for the duration of the contract and until the expiry of one year after the end of the contract. In the event of non-compliance, the client undertakes to pay OFI GmbH a contractual penalty in the amount of one gross annual salary or remuneration last received by the employee concerned.

15. Severability clause

- 15.1. Invalid provisions of a contract shall not affect the validity of the remaining provisions. If a provision of a contract is invalid, the contracting parties agree to replace it with a valid provision that comes as close as possible to the meaning and purpose of the invalid provision and its economic content. The GTC apply to consumers (pursuant to the Consumer Protection Act) only insofar as they are not subject to mandatory provisions of the Consumer Protection Act BGBI. No. 140/1979, as amended.

16. Choice of law, place of jurisdiction and other matters

- 16.1. Ancillary agreements, amendments and supplements to these GTC must be made in writing.
- 16.2. The place of fulfilment for services provided by OFI GmbH shall be the registered office of OFI GmbH. The place of fulfilment for payments by the client shall be Vienna.
- 16.3. This contract and the entire legal relationship between the contracting parties shall be governed by Austrian law, to the exclusion of its conflict of law rules. The application of the UN Convention on Contracts for the International Sale of Goods is excluded in any case.
- 16.4. For disputes arising from or in connection with a contract, the exclusive jurisdiction of the court with subject-matter jurisdiction for the Inner City of Vienna shall be agreed (provided the client has its registered office in the EU), whereby OFI GmbH shall also be entitled to bring actions before other courts for which the contractual partner has a statutory place of jurisdiction. For clients whose registered office is outside the EU, it is agreed that charges against OFI GmbH can only be brought before the court with subject-matter jurisdiction for Vienna. For claims against the client, the non-exclusive jurisdiction of the court with subject-matter jurisdiction for the court district of the Inner City of Vienna is agreed.