

General Terms and Conditions of W.H.U GmbH

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1. General information – validity of the General Terms and Conditions:

- a. Unless restricted by other agreements, the following General Terms and Conditions (GTC) shall apply to all contractual obligations of W.H.U. GmbH towards the client. Deviations, supplements and special assurances require the written permission of W.H.U. GmbH. The client recognises these GTC on placement of order. In the event of individual provisions of these GTC proving ineffective in total or in part, the effectiveness of the remaining provisions shall remain unaffected.
- b. The GTC are published on the website of W.H.U. GmbH and displayed on the company premises.
- c. The term "report" in the context of these GTC encompasses all products produced by W.H.U. GmbH (e.g. test reports, inspection reports, appraisals in every transmission form and including all associated tables, etc.). The term "in writing" also includes electronic data traffic (e.g. e mail), but not communication via social media.

2. Orders:

- a. Orders may be placed in writing, verbally or by telephone. The mere transmission of specimens shall also be deemed to be the placement of a test or inspection order, provided that this is recognisable from the nature of the specimen, the transmission or its designation. The contract between the client and W.H.U. GmbH is concluded if the order placed by the client has been accepted by W.H.U. GmbH either in writing by transmission of an order confirmation or, in the case of specimens sent directly, by implied examination of the specimen.
- b. The scope of the services to be rendered results from the offer, the accepted written order or from the order confirmation issued by W.H.U. GmbH (the date of the order confirmation may differ from the date of the conclusion of the contract). In particular, in the case of orders not placed in writing, an order shall be deemed accepted only to the extent that it has been specified and confirmed in writing by W.H.U. GmbH on the basis of the required scope of testing and inspection either in the order confirmation or in the documents accompanying the order. W.H.U. GmbH is entitled to mention in reports conformity assessments resulting from the order. Separate evaluations are to be specified separately. Unless otherwise agreed, measurement uncertainties shall only be taken into account by W.H.U. GmbH if this is provided for in the specification documents. This also applies to any variabilities resulting from sampling.
- c. All changes or additions to the accepted order must be confirmed in writing by W.H.U. GmbH to become part of the contractual relationship on which the changes are based. The order confirmation shall be deemed a new offer if it deviates from the original offer in terms of type and scope, unless the customer raises objections to this within three days. Explanations, confirmations or commitments of individual employees through which existing orders are adapted or changed also require the written form and written confirmation by W.H.U. GmbH to become effective.
- d. If deadlines have been set for realisation of the order, these are only binding if they have been expressly agreed (i.e. if they are recorded in either the offer or order confirmation).
- e. W.H.U. GmbH fulfills its services either on site or in the laboratories in 5500 Bischofshofen, Bodenlehenstraße 15 or 6068 Mils, Gewerbepark 16.
- f. W.H.U. GmbH may use other appropriately authorised parties to perform the contract and place orders with them on behalf and on the account of the client. However, in the event of third parties being utilised, W.H.U. GmbH is obliged to inform the client of this intention and to give the client the opportunity to object within 10 days to this placing of the order with a third party.
- g. W.H.U. GmbH may also subcontract other appropriately authorised parties with parts of tests or inspections to perform the contract and place orders with them on behalf and on the account of W.H.U. GmbH. W.H.U. GmbH is, however, obliged to inform the client of this and to point out this circumstance prior to conclusion of contract. By placing an order, despite this notice, the client agrees to the involvement of any subcontractors.

3. Withdrawal:

- a. Consumers pursuant to the Consumer Protection Act (KSchG) are entitled to withdraw informally from their contract within 14 days after conclusion of the contract without giving reasons. Use of the form on the W.H.U. GmbH website (www.whu-lab.at) is recommended for this purpose. If W.H.U. GmbH has already started with performance of the order at the time of withdrawal from the contract by the consumer, the consumer must pay the pro rata costs incurred up to that time. W.H.U. GmbH cannot compile a report if work is not completed.
- b. Aside from consumer transactions, withdrawal from the contract is only permissible for important reasons.
- c. The following in particular are considered important reasons pursuant to 3.b. of these GTC:
 - In the event of default of payment on the part of W.H.U. GmbH: A withdrawal of the client is only possible after setting a reasonable period of grace of at least 14 days and by registered letter.
 - In the event of default on the part of the client in the case of an agreed cooperation activity which renders performance of the order by W.H.U. GmbH impossible or significantly impedes it, W.H.U. GmbH shall be entitled to withdraw from the contract.
- d. If W.H.U. GmbH is entitled to withdraw from the contract, W.H.U. GmbH retains the right to the entire agreed fee. This also applies in the event of unjustified withdrawal by the client. W.H.U. GmbH must have costs saved pursuant to Section 1168 of the Austrian Civil Code (§ 1168 ABGB) taken into account in this case. In the case of justified withdrawal by the client, services provided by W.H.U. GmbH up to the time of the declaration of withdrawal must be paid for.

4. Sampling, sample delivery and sample storage:

- a. Delivery of samples is realised at the expense and risk of the client, unless otherwise agreed. In the case of shipment by the client, the material to be investigated should be packed correctly and in observance of any instructions issued by W.H.U. GmbH.
- b. The client is liable for any damages that can be traced back to the hazardous nature of sample materials. The client is obliged to indicate all dangers of which it is aware and to inform W.H.U. GmbH of these in writing.
- c. If mutually agreed sampling or inspection or a sample delivery takes place before the expiry of any withdrawal period, it is acknowledged that the right of withdrawal expires when W.H.U. GmbH generates the report (=complete fulfilment of the contract). W.H.U. GmbH shall only accept samples after placement of an order. W.H.U. GmbH is entitled to reject the acceptance of samples in the absence of an order. Due to preparatory work, at least 50% of contractual performance is deemed already fulfilled when the samples are accepted.
- d. Samples are stored for a minimum of 6 months after completion of testing, provided their quality permits this. Samples are disposed of in compliance with legal regulations when this period expires. Disposal costs are borne by the client. Where the client desires the return of samples, this is realised after receipt of a written request and at the expense of the client. This also applies in the event of withdrawal from the contract.

5. Realisation of testing and inspection, quality assurance:

- a. W.H.U. GmbH performs its services in compliance with state-of-the-art technical standards valid at the time of commissioning and on the basis of due standards of care customary in the sector. Legal, standardised or other generally-recognised testing and inspection procedures are employed where possible. W.H.U. GmbH is entitled to make technically justified changes to procedures. W.H.U. GmbH should be informed of any request for special procedures at the time of enquiry concerning an offer. W.H.U. GmbH is entitled to reject the realisation of tests and inspections that could endanger an objective finding or produce a result of reduced significance.
- b. The client is entitled to be present during tests and inspections which it has commissioned, provided no other legal regulations prevent this. Any additional costs arising from this (organisational outlay, confidentiality) are borne by the client.
- c. W.H.U. GmbH is accredited by the Austrian BMWA as a test authority conforming to EN ISO 17025 and an inspection authority conforming to EN ISO 17020. The scope of accreditation can be viewed during business hours in the laboratory premises or downloaded on the internet.

6. Prices, delivery and payment conditions:

- a. Unless otherwise stated, all prices are quoted in EURO.
- b. Value added tax (VAT) is not included in the prices quoted. This must be paid separately by the client.
- c. Compensation with any counterclaims against claims of W.H.U. GmbH is impermissible, regardless of the reason involved.
- d. Prices for services which are routinely rendered (tests, inspections) are recorded in a directory of services. If prices contained in the directory of services should be changed following order placement, prices valid at the time of placing the order shall be regarded as agreed.
- e. Insofar as routine services are not involved, prices of services are calculated separately according to a fixed calculation key and sent to the customer upon request with a binding offer.
- f. A discount granted once does not constitute a legal entitlement with regard to further services.
- g. The client must provide W.H.U. GmbH with an invoicing address when placing the order. In addition, the invoicing address can be supplemented through the addition of an email address.
- h. Invoicing can be realised electronically or by letter to the address given by the client.
- i. W.H.U. GmbH reports are generally sent digitally signed in .pdf format by email to the client or to an email address (or database) provided by the client. If only a normal address is disclosed, a written report of W.H.U. GmbH (1 copy) is sent to the disclosed address. Additional costs for further copies, changing of delivery address or other electronic formats requested by the client are borne by the client and are to be paid by the latter.
- j. Unless otherwise expressly agreed, invoices under € 2,000.00 must be paid without deductions within 7 days of invoicing to the account of a bank with a domestic branch named by W.H.U. GmbH. Invoices with a final amount greater than € 2,000.00 must be paid without deductions within 30 days of invoicing.
- k. Payment of interest of 9.2% per annum above the base rate of the ECB plus dunning costs (reminder charges) shall be due in the event of default of payment.

7. Title retention:

- a. W.H.U. GmbH reserves all rights and uses to the documents it produces (in particular reports) until full payment of the price or until all claims have been fulfilled.
- b. Any use of reports or parts thereof is only permitted with the express consent of W.H.U. GmbH until the price has been paid in full.
- c. In the event of a violation of the provisions of 7b for the protection of reports, W.H.U. GmbH is entitled to a penalty equivalent to the appropriate payment for unauthorised use, whereby the assertion of a claim for damages in excess thereof remains unaffected by this contractual penalty.
- d. In the event of non-compliance with payment obligations, W.H.U. GmbH is entitled to prohibit the use of these products and demand the immediate return of the originals.

8. Warranty and compensation:

- a. For accredited activities, the requirements of the Accreditation Insurance Ordinance (Akkreditierungsversicherungsverordnung) apply with a maximum limit of € 3,000,000.00.
- b. Warranty claims for the remedying of any deficiencies must be asserted by the client in writing immediately after the deficiency has been detected, but after 14 days at the latest if otherwise precluded.
- c. The warranty for deficiencies is limited to a period of 3 months from the date of performance of the service.
- d. 8.a.) and 8.b.) do not apply to consumers, and the statutory warranty period is deemed as agreed in this respect.
- e. Claims for conversion and price reduction are excluded if improvement or replacement is possible. Claims for improvement or provision of missing components must be fulfilled by W.H.U. GmbH within a reasonable period amounting to one third of the performance to be realised. If the time period has expired unused or if the deficiency could not be rectified within the scope of the primary remedy, the client shall only be entitled to a price reduction.
- f. If W.H.U. GmbH has culpably caused damage to the client in violation of its contractual obligations in the non-accredited area, the client's liability for compensation of the damage caused as a result - unless otherwise regulated in individual cases - is limited in cases of slight negligence as follows:
 - Unlimited in the event of unjustified withdrawal and personal injury
 - In all other cases with the following limitations:
 - Liability is excluded in the case of business transactions with entrepreneurs;
 - There is a liability up to three times the order amount in the case of consumer transactions.
 - There is no liability for breach of ancillary contractual obligations.
- g. Liability with regard to companies is also excluded in cases of gross negligence.
- h. Liability for consequential damages and lost profit is excluded in case of gross negligence.

9. Complaints:

- a. Complaints and enquiries about tests, inspections, appraisals and their results can be communicated to W.H.U. GmbH either verbally, by telephone, electronically or in the written form. W.H.U. GmbH checks the legitimacy of complaints through re-examination of the file. The customer may choose between communication of the results of complaint processing by telephone or in writing. In the event of conflict concerning results, W.H.U. GmbH offers, insofar as possible, to have the test repeated by another accredited test authority. Should the results determined by W.H.U. GmbH be confirmed, the client must bear the costs for the second test and any additional costs.

10. Protection of work products, confidentiality, data processing:

- a. W.H.U. GmbH retains the copyright to services performed, insofar as these are suitable for this. The client may only use the reports compiled in the context of its order for the particular purpose agreed upon. Any other use requires prior written permission. The publishing and duplication of parts or extracts of reports require the written permission of W.H.U. GmbH.
- b. W.H.U. GmbH places all results achieved in direct connection with the order at the disposal of the client. All information received from the client and gained from examinations will be handled confidentially, provided legal regulations do not dictate otherwise.
- c. W.H.U. GmbH is obliged to store personal and economic data of the client (electronically or in written form) for processing of orders and to process it for the purpose of reporting and invoicing. Agreement to the use of data for the aforementioned purpose is given by placing an order. Details of stored data can be found on the W.H.U. GmbH website. The data subject (party concerned) may request the deletion of the data at any time. Data is deleted when there are no longer any direct or indirect legal obligations to retain the data. W.H.U. GmbH will not pass on any data without the consent of the data subject (party concerned) or the client.

11. Choice of law, place of jurisdiction:

- a. Contracts between the client and W.H.U. GmbH are governed exclusively by Austrian law.
- b. The jurisdiction of the competent court at the location of the registered office of W.H.U. GmbH is agreed for all disputes arising from this contract.