

## GENERAL CONDITIONS FOR TESTING SERVICES

### 1. Area of application, definitions, execution of the agreement; important documents

- 1.1. These General Conditions shall apply to any agreements entered into between FGH Engineering & Test GmbH (hereinafter, "**FGH**") - as German subsidiary of the Italian company CESI S.p.A. - and the client (hereinafter "**Client**"; FGH and the Client hereinafter respectively referred to as the "**Party**" or, collectively, the "**Parties**") for the performance of testing services ("Testing Services", hereinafter, also called "**Services**" or "**Tests**").
- 1.2. Testing Services consist of experimental laboratory activities and services, based on methods and programs contractually agreed; it is understood that FGH is hereby authorized to perform the required Tests, in its subsidiaries' laboratories or in other third parties' primary and guaranteed qualified laboratories.
- 1.3. Upon receipt of the Client request for Services, FGH shall issue a quotation (hereinafter "**Quotation**"), including specific terms and conditions for the performance of the Testing Services and these General Conditions as well. The agreement for the said Services (hereinafter "**Service Agreement**" or "**Agreement**") shall be considered as executed once the Client shall duly countersign FGH Quotation. The signing of the Service Agreement shall be followed by the FGH definitive reservation (hereinafter "**Definitive Reservation**"), by means of which FGH shall provide the Client with detailed and binding information on specific scheduled date and timing for the performance of the Tests. Any agreement reached by the Parties prior to the Service Agreement shall be intended as mere draft, leaving the Parties free to withdraw from negotiations.
- 1.4. The Service Agreement shall therefore consist of the following documents, which - together with the other enclosures - shall constitute integral and substantial part of the Agreement:
  - the Definitive Reservation;
  - FGH Quotation, duly countersigned by the Client;
  - these General Conditions;
  - any enclosures and other specific documents mentioned in the Quotation.In case of any discrepancy and/or inconsistency between the above documents, each document shall prevail on the following in the order given above, unless otherwise specified.

### 2. Reservations, renunciation, delays

- 2.1. Non-definitive reservations, even though accompanied by draft covenants pursuant to art. 1.3 above (e.g. FGH proposals on possible date and timing, aimed at verifying Client's availability), shall be neither binding for FGH nor for the Client. Should the Quotation, concerning specific Testing Services conditions, be irrevocable until a set date, or should the Client be asked to countersign it by a set date, the said Quotation shall be definitely considered as expired on the indicated date and negotiations shall be terminated if the Client should not accept within the said date.

Once issued the Definitive Reservation, should the Client request a modification to the Services commencement date thereby scheduled, FGH shall be free to determine whether or not to agree with the said request. Should FGH not join the said request the scheduled commencement date shall remain effective. In case of cancellation of the Services by the Client, due to whatever reason (excepting default on FGH's behalf), the latter shall be considered in default and FGH may lawfully terminate the Service Agreement for good cause without setting a period for remedy of such default pursuant to Section 323 para. 2 German Civil Code. It being understood that FGH shall consequently be entitled to apply to the Client the penalties defined in the Service Agreement as well as to claim for further possible damages suffered by FGH, also depending on the advance period given by the Client. FGH's statutory rights, in particular to claim damages and the refund of any borne expenses, shall remain unaffected.

- 2.2 Services execution terms are established in the exclusive interest of FGH. In any case, with no prejudice to the provisions set forth in article 9 below as per FGH's liabilities, the latter shall not be liable for Tests delays, postponements or interruptions, even due to laboratory and equipment operations and/or maintenance needs.

### 3. Additional obligations

- 3.1. All additional duties and charges (customs operations, insurance, transport, duties and taxes etc.) relating, concerning or connected to the performance of the Services shall be borne by the Client.
- 3.2. The Client shall ask FGH in advance for indications regarding the delivery conditions and provisions for the equipment and materials to be tested (hereinafter "**Products**"). FGH shall charge the Client with every possible additional cost, expense and fine suffered by FGH due to Client mistakes in communicating to FGH or to the relevant public authority any relevant information .
- 3.3. The Products shall be transported and delivered to FGH by DDP (Delivery Duty Paid, Incoterms 2010) conditions and shall be returned to the Client under EXW (Ex Works, Incoterms 2010) conditions, except as otherwise agreed upon in writing between the Parties.
- 3.4. FGH shall unload and load the Products on behalf of the Client. FGH's liability under Section 9 below will remain unaffected.
- 3.5. FGH shall not unpack and pack the Products on behalf of the Client prior to the Tests dates, unless otherwise agreed in writing. FGH's liability under Section 9 below will remain unaffected. Should such Products require specific packing or unpacking modalities, the Client shall inform FGH in advance.
- 3.6. Should assembly or disassembly activities be required, FGH shall procure the availability of equipped areas and assistance personnel only in case the Parties have specifically thus agreed in writing. It being understood that such Products shall be sent, by the Client, complete with any components in order to enable FGH to duly carry on the Tests. FGH shall not assume any liabilities as for the correct fulfilment of such operations provided that the Client's instructions on assembly and disassembly shall be followed.
- 3.7. The Client shall provide FGH with all and any information re the internal handling and transport, e.g. the location of the load fastening points for lifting and the maximum size of a transport unit, as well as information in order to safely set -up the Products. Such provision shall mostly be applied in case the set-up required for the performance of the Testing Services should be different from the set-up required in the later final utilization of such Products.
- 3.8. It is understood that the Client shall provide FGH with all and any information re the Products which shall be tested, including but not limited to all the necessary technical data, Tests data, operating information. The Client shall be liable for the correctness, completeness and timeliness of such information.
- 3.9. Should the Service Agreement require FGH obligation to ship the Products after the completion of the Tests, the relevant shipment costs shall be charged to the Client.
- 3.10. In case of dangerous Products, see par. 8 below.

## 4. Tests performance

- 4.1. The Client shall be solely and entirely responsible for the choice and preparation of Products, prior to the arrival at FGH premises.
- 4.2. The Client shall provide the FGH representative ("**FGH Representative**") with the name and details of the person responsible for the Tests.
- 4.3. Should the Tests be interrupted or delayed for reasons depending on the Products (by way of example, their fault or unavailability or lack of information about such Products due to Client's liability), FGH shall set a reasonable time period for Client to remedy the situation. Thereafter, FGH shall have the right to ask for damages in the amount equal to the overall price – as specified in the Service Agreement - due to FGH for the said interrupted or delayed Services, with no prejudice to FGH's right to terminate the Agreement and to claim for compensation for any suffered damages and for the refund of any borne expenses, as specified in art. 2.2 above. Any expenses saved by FGH shall be deducted from the amount payable by the Client. FGH's statutory right to claim damages caused by the delay shall remain unaffected.
- 4.4. Once the Testing Services have been performed, the Client shall be required to recover the tested Products at the earliest, at its own expenses.
- 4.5. Unless otherwise agreed in writing and in case the Client should not promptly recover the Products in compliance with art. 4.4. above, FGH shall keep tested Products for a maximum of 15 (fifteen) calendar days upon completion of the relevant Tests. Once the said period shall be expired, FGH shall be free to dispose of them as its discretion, e.g. by selling, destroying or disposing of them, at Client's expenses. FGH will remind the Client of said time period and said right of disposal upon completion of the Testing Services. All charges, expenses or costs sustained by FGH for the maintenance and/or destruction of the said goods, and/or waste disposal and/or possible closure of customs procedures (if any) shall be charged to the Client. It is hereby understood that FGH shall assume no liability as for the custody of the said Products if Client is in delay with its obligation under art. 4.4 above. Therefore, during the entire period of the Products stay on premises, shall have no liabilities towards the Client for any deterioration, theft, alteration or damage of any nature whatsoever suffered by the said Products..  
The above provisions of art. 4.4 and 4.5 shall also apply to Products which have been damaged as a result of the performance of the Tests and/or in general to Products which reached FGH premises already incomplete and/or damaged; in such case, the aforesaid 15 (fifteen) days period shall start from the date in which the said Products have been received.
- 4.6. The Testing Services shall be considered fully performed by the Client once the Tests program has been completely performed or, otherwise, when the full completion should become not possible for any reason due to the tested Products or to the Client liability.

## 5. Terms of payment and invoicing

The Testing Services price and the relevant terms of payment are detailed in the Quotation.

As a general rule, the Client shall pay in advance an amount equal to 100% (one hundred per cent) of such price, except as otherwise provided in the Quotation.

Within 15 (fifteen) days from the receipt of the Quotation duly countersigned by the Client, FGH shall issue the relevant invoice. The Client shall pay the price by means of a bank transfer within 30 (thirty) days. The execution of such advance payment shall be necessary in order FGH to proceed with the Definitive Reservation.

A balance invoice, which shall include the price of any additional activity performed by FGH and every possible further expense, cost or fine to be charged to the Client, shall be therefore issued upon completion of the Testing Services or on a monthly basis, in case of Testing Services lasting more than 1 (one) month.

The relevant payment shall be executed by the Client by means of a bank transfer within 30 (thirty) days of the date of invoice receipt by the Client.

## 6. Access for Client Personnel to FGH premises

- 6.1. The Client shall ask in advance in writing FGH Representative in order to obtain a specific authorisation for its personnel or any possible guests who should be present during the Tests carried out by FGH ("**Client Personnel**"). For this purpose, the Client shall submit to FGH in writing the details of the persons willing to be enabled to enter FGH premises. The entry shall be forbidden to unauthorized persons.
- 6.2. The Client hereto represents and warrants that any Client Personnel accessing FGH premises shall be regularly employed, paid and insured, provided that FGH shall be held safe and harmless against any claims and/or requests that the said Client Personnel and/or third parties may ask FGH due to any reasons whatsoever. The Client shall therefore be considered fully liable for the conduct of the Client Personnel towards FGH and any third Parties.
- 6.3. It is understood that the Client Personnel authorised to access FGH premises in compliance with art. 6.1 above, shall abide by German laws, regulations and internal policies in force in FGH, including access rules and policies, also complying with all safety, health and environmental protection obligations thereby foreseen, as specified in art. 8 below.
- 6.4. Use of cameras, video cameras, cine-cameras etc. shall be strictly forbidden on FGH premises, unless authorised in advance in writing by the FGH Representative.

## 7. Test Record

- 7.1. Following the performance of the Testing Services, FGH shall issue a test summary, called Test Record (hereinafter "**Test Record**"). The said document shall not be intended to certify the compliance of the tested Products with any law or regulation: such Test Record shall in fact consist of a mere résumé of the performed Tests and the relevant results, unless otherwise agreed in writing by the Parties. The Test Record shall be drawn-up in German or, if thus agreed in writing by the Parties, in English. The Test Record shall be sent to the Client by FGH, to the address indicated in the Service Agreement, unless otherwise agreed in writing by the Parties.
- 7.2. The Client may reproduce and circulate Tests documents issued by FGH – among which, the Test Record, within the limits and the scope indicated in the Agreement, provided that the said documents shall be reproduced in their entirety. All copyrights in the Test Reports, Test Records, Tests results, calculations, representations, etc. drawn-up by FGH shall remain exclusive property of FGH. Any FGH's trademarks and any trademarks owned by any FGH Accreditation Body shall be reproduced in the document independently of any other trademark, logo or name. Prior written authorization by FGH shall be required in order to be allowed to publish or circulate partial reproductions towards third parties.
- 7.3. The Client shall use Test Reports, Test Records, Tests results, calculations, representations, etc. within the framework of the Service Agreement and only for the purpose thereby agreed upon with FGH. It is understood that FGH may authorize in writing any further use of such documents, on a case by case basis, upon written request by the Client.
- 7.4. FGH shall provide the Client with any further technical document, different from the Test Record (for example the so called Type Test Certificate), only if specifically foreseen in the Service Agreement.

## 8. Health, safety and environment

- 8.1. The Client shall be provided in advance with any information re company policies in force, pertaining to company best practices, safety, labour hygiene and respect for the environment. The Client shall comply with and shall procure Client Personnel complies with the said regulations, also with reference to the rules and policies in force regarding the access to FGH premises. FGH also

reserves the right to give specific instructions based on the type of scheduled Services, which the Client shall also comply with and shall procure Client Personnel complies with.

- 8.2. The Client, availing itself of suitable professionals for the assigned tasks, shall be allowed to carry out operations – e.g., set-up operations - on its Products on FGH premises, with the prior written authorisation issued by FGH Representative upon request and, in that case, without prejudice to the Client's full, sole liability. The said authorised operations shall be carried out in compliance with times and methods to be agreed with FGH, in order to interfere with FGH activity less invasively as possible. In carrying out the said operations, the Client undertakes to comply with laws and regulations in force in FGH. Pursuant to art. 4.2 above, the Client shall provide the appointed FGH Representative (by way of example: the person in charge of logistic support, as for assembly and disassembly operations; the Test Engineer, as for Test activities) with the name of such professionals .
- 8.3. The Client declares and warrants that its Products are not dangerous. Should any Products be dangerous (possible explosion, fire, disintegration, development of gas or toxic fumes, radioactive emissions, etc., both during the Tests and during preliminary or follow-up operations) the Client undertakes to inform FGH in advance in writing and to supply, prior to the delivery of such Products, suitable documentation, in order any necessary precaution to be taken against any damaging consequences. In such events, FGH shall have the right to terminate the Service Agreement, with no Client right to indemnity and/or compensation for damages; or, should not FGH exercise the said right, the Client shall be bind to stipulate adequate insurance policies against damages to people and property deriving from dangerous Products , during the stay on FGH premises. The Client shall also comply with all specific instructions given by FGH personnel in order the work to be carried out in the safety conditions set forth by German laws and FGH instructions and policies.
- 8.4. The Client hereby declares and warrants to be regularly insured against accidents: the Client, upon FGH request, shall give evidence of its compliance with all the mandatory insurance laws in force. The Client's insurance shall cover Client Personnel present in FGH. Moreover, FGH reserves the right to bind the acceptance of the Service Agreement to the Client submission of an adequate insurance policy against damages to people and property, caused by Client's Products on FGH premises.

## 9. Liabilities

- 9.1. FGH hereby undertakes to comply with the Service Agreement, diligently carrying out the Testing Services. FGH neither shall be considered as in default, nor may be claimed damages, in case of mistakes in the Tests results, in case FGH has diligently performed the Tests, applying all the suitable procedures and using the proper instruments and techniques. The Parties agree that FGH will not be liable for the results of the Testing Services under the provisions on contracts of work according to Sections 631 et seq. German Civil Code. In case of any technical mistakes, FGH shall be only requested to re-perform the Tests. In case re-performance of the Tests fails at least twice, Client's statutory rights shall remain unaffected.
- 9.2. FGH shall not assume any liabilities in case the performance of the Testing Services should cause any kind of damages or even the destruction of the tested Products.
- 9.3. FGH's liability for damages, irrespective of the legal grounds, in particular due to impossibility, delay, defective services, other breaches of contract and breaches of duty, is limited in accordance with the following terms:
  - a) FGH has unlimited liability for wilful misconduct and gross negligence, for culpable injury to life, body or health.
  - b) For negligence, FGH is liable only in the case of the violation of duties that are fundamental to the Agreement, and only in the amount of the typically foreseeable damage. The obligations fundamental to the Agreement are to Services on time and free from defects, as well as duties to advise, protect and exercise proper care that enables the Client to use the products or services in accordance with the Agreement or serve to protect the essential legally protected interests of the Client and its staff against substantial damage.

The above exclusions and limitations of liability apply to the same extent for the benefit of FGH's boards, legal representatives, employees and other vicarious agents.

- 9.4 Moreover, liability shall be limited to direct damages suffered by the Client and, in any case, within the limit of the value of the single Agreement; indirect and/or consequential damages are expressly excluded.
- 9.5 It remains therefore understood that FGH shall be liable for direct damages suffered by the Client as a consequence of the non-fulfilment of the Service Agreement as provided for in previous art. 9.3, only in case of irrevocable judgement or arbitration award ascertaining that the said damages were exclusively due to FGH fault in performing the Tests
- 9.6 With no prejudice to the above, Client liability for damages caused to properties by its Products present on FGH premises shall be only excluded in case:
- damages should be direct consequence of experimental laboratory activities; and
  - the Client should have diligently informed FGH about any risks connected to such Products; and
  - the Client should have operated with due diligence in the Products set-up operations performed by the same Client.

## 10. Information to data subjects and personal data processing

The Client hereby acknowledges and accepts that its data, acquired by FGH, shall be collected and processed in accordance with the applicable laws and regulations and solely for the purposes associated with the execution of the Services; such data shall be therefore stored throughout the duration of the business relationship and after its expiry for the ordinary period of barring by limitation and FGH is relieved of any civil, penal or administrative liability due to, following or connected to the said processing.

## 11. Termination and Suspension

11.1. Unless otherwise specified, and without any prejudice to the application of any other remedies foreseen by law and of the right to claim for any suffered damages, FGH shall have the right to terminate the Agreement for good cause pursuant to and for the purposes set forth by German laws, by means of a registered letter with advice of receipt anticipated via fax, upon occurrence of one of the following events :

- a) the Client should become insolvent towards creditors and/or should have to transfer its assets to creditors, or should be subjected to any bankruptcy procedure;
- b) the Client should breach a provision on health, safety in the workplace, environmental protection and waste management according to art. 8;
- c) the Client should be over 30 (thirty) days late in payment of the amounts owed pursuant to art. 5, unless the amount owed is not material;
- d) the Client should be in default according to art. 2.2 and 4.3 above, unless the default is not material;
- e) the Client should breach confidentiality obligations regarding information received.

Should the Agreement be terminated, FGH shall have the right to apply penalties agreed in writing between the Parties in the Service Agreement, and to claim for compensation of any further suffered damages.

11.2. FGH shall also have the right to suspend the execution of the Service Agreement, in case the Client:

- should not be in compliance with the terms of payment provided in art. 5;
- the Client should not comply with obligations set forth in art. 6 and 8.

Provided that FGH shall issue a written warning notice stating the breach and setting a reasonable time period for Client to remedy the breach prior to such suspension.

## 12. Confidentiality

FGH and the Client agree to keep strictly private and confidential and to not use for any purpose other than as set forth herein all technical information and materials orally or in writing supplied hereunder and any information which both the Client and FGH may acquire about the other Party, its activities or the Products as a result of entering into the Service Agreement, provided that such obligation shall not apply to technical information or material which:

- i) was in possession of the receiving Party without restriction prior to the receipt from the other Party; or
- ii) was in the public domain at time of receipt; or
- iii) becomes part of the public domain through no fault of the receiving Party;
- iv) should be required to be disclosed by any applicable law or regulation.

The said confidentiality obligation shall survive the termination of the Service Agreement for a period of 3 (three) years thereof.

Breach of said confidentiality obligations shall entitle FGH to terminate the Agreement and claim for compensation of suffered damages, with no prejudice to application of all other remedies foreseen by law.

## 13. Applicable Law, competent Court of Law

13.1 This Agreement shall be governed by and be construed in accordance with the laws of the Federal Republic of Germany to the exclusion of provisions of private international law. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

13.2 The Parties shall use reasonable efforts in order to amicably settle all disputes, controversies or claims arising in any way out or relating to this Service Agreement, or to breach, termination or invalidity thereof.

13.3 All such disputes, which shall not be solved in an amicable way within 1 (one) month, shall be finally settled under the exclusive jurisdiction of Mannheim.

## 14. Miscellanea

Amendments to the Agreement shall only be effective and binding if agreed upon in writing and signed by both Parties. This also applies to any amendment or waiver of this written form requirement.

No delay or failure in exercising any right, power or remedy under the Agreement shall be considered as a waiver. Any waiver of any breach of the Agreement shall not be deemed to be a waiver of any subsequent or other breach. Any single or partial exercise of any right, power or remedy under the Agreement shall not prevent any further or other exercise of such right, power or remedy or the exercise of any other right, power or remedy.

## 15. Communications

Unless otherwise specified, any communications shall be sent in writing and shall be sent by registered letter with notice of receipt, via fax or email, for technical communications, and shall be considered effectively and validly sent (i) when received by the addressee, if sent by registered letter with notice of receipt, (ii) at the time of reading or reception confirm, if sent by fax or email.

Communications shall be sent to addresses given in the Quotation or to other addresses communicated in compliance with the terms hereof.

## 16. Severability

The invalidity or unenforceability of one or more terms of the Service Agreement, any component thereof or of another agreement does not affect the validity of the remainder of the contract. The statutory regulations apply in place of an invalid or unenforceable term.

Version 23.09.2013

In acceptance

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(stamp and signature)

