

General Terms and Conditions for Services (Suisse TP GTC)

1. General

These General Terms and Conditions (GTC) govern the conclusion, content and performance of a contract for the provision of services between Suisse TP and the Contractual Partner.

Alternative or additional provisions are valid only if agreed in writing and signed by both Suisse TP and the Contractual Partner.

2. Conclusion of Contract

The proposal made by Suisse TP to the Contractual Partner shall be regarded as an offer. As soon as the Contractual Partner accepts the offer, the contract shall become valid and binding. Upon request by the Contractual Partner or if deemed necessary Suisse TP shall send to the Contractual Partner a written confirmation of the contract.

3. Kind and scope of services

The services to be provided by Suisse TP shall involve either consulting, whereby Suisse TP shall provide advice and support for the Contractual Partner regarding technological and scientific matters and provide its expert opinion or studies, such as tests of the Contractual Partner's materials, devices and procedures, improvements based on these tests, analytical studies and damage investigations. The kind and scope of services to be provided by Suisse TP shall be determined by the offer and confirmation of the contract, including any annexes.

4. Reporting

4.1. The results of services shall usually be summarised in a written report. The report shall, in principle, be in German. If the Contractual Partner wishes to receive such report in English, it must notify Suisse TP of this in writing before the latter starts its work. Any subsequent expenses and costs resulting from translation work will be charged to the Contractual Partner.

4.2. Translations into any language other than those mentioned above are subject to special agreement. The associated extra costs shall be charged to the Contractual Partner.

4.3. Unless otherwise agreed between Suisse TP and the Contractual Partner, the latter shall receive an electronic copy (pdf-file) of the report without signature. The signed original of the report shall be filed with Suisse TP.

5. Test materials/samples

Prior to Suisse TP starting its work, the Contractual Partner shall explicitly instruct Suisse TP as to whether or not the Contractual Partner wishes to receive back the test materials/samples provided (test materials, products, devices, etc.) after Suisse TP has completed its work. If the Contractual Partner does not give any such explicit instruction, Suisse TP shall be entitled to dispose of these test materials/samples as it sees fit after having completed its work. The Contractual Partner shall bear all transportation costs of test materials/samples (to and from Suisse TP) and any test material/sample disposal costs incurred by Suisse TP.

6. Deadlines

Agreed deadlines for providing services shall be binding subject to force majeure. Such deadlines shall further be subject to the Contractual Partner complying with its obligations set forth in Section 10.

7. Advertising using Suisse TP reports

The use of Suisse SP-reports for any advertising purposes, including mere reference to the report, is, in principle, permitted without any additional fee. The intended use and, in particular, any envisaged statements, have to be agreed upon between the Contractual Partner and Suisse TP beforehand.

8. Confidentiality

8.1. Each, Suisse TP and the Contractual Partner undertake to treat as confidential commercial and business information of the respective other party that may be disclosed to it during the performance of the contract or which may become known to it in any other way, and it shall not disclose such information to third parties. Disclosure to authorities required by law is reserved. Information may be disclosed to advisors bound by a respective confidentiality obligation. This duty of confidentiality shall be valid for a term of three (3) years following the conclusion of the respective contract.

8.2. The use by the Contractual Partner of information and data contained in the report referred to in Section 4 shall not be regarded as a breach of the obligations set forth in Section 8.1.

8.3. Unless explicitly instructed otherwise in writing and beforehand by the Contractual Partner Suisse TP is entitled to transmit results, reports and additional information via unsecured e-mail communication to the Contractual Partner or to other third parties.

9. Intellectual Property

9.1. Any pre-existing intellectual property of Suisse TP (in particular IP rights, know-how, analysis, methods, etc.) shall remain Suisse TP's exclusive intellectual property.

9.2. Results and knowledge contained in reports according to Section 4 are, subject to Section 9.1, the property of the Contractual Partner. Should the Contractual Partner apply for a patent based on results and knowledge the declaration of inventorship of Suisse TP and/or its employees is reserved.

9.3. If, in providing its services, Suisse TP can gain new knowledge in the field of analysis, measuring techniques, sample preparation, evaluation methods and/or engineering any respective intellectual property shall remain the exclusive property of Suisse TP.

10. Cooperation of Contractual Partner

The Contractual Partner undertakes to provide Suisse TP, in time and in full, with all documents and information and any test materials/samples necessary for the provision of the services required.

11. Standards to be observed

If, in providing the agreed services, Suisse TP shall observe specific standards, such standards shall be agreed upon in the contract. If no specific standards are agreed upon, Suisse TP shall provide the services according to, or in broadly following, the – in Suisse TP's opinion – most appropriate standards.

12. Payment

12.1. Unless agreed otherwise, Suisse TP shall be compensated for its services on a time spent basis. The respective then valid hourly rates of Suisse TP shall apply.

12.2. If a fixed price is agreed, such price shall be subject to the information available at the time of the conclusion of the contract and shall further be subject to agreed upon conditions being fulfilled. If such information and conditions change, Suisse TP is entitled to request that the contract and the agreed fixed price be amended accordingly.

12.3. Suisse TP is entitled to demand an advance payment before starting its work. Any compensation agreed upon does not include any ancillary expenses (e.g. taxes and fees). Unless agreed otherwise, all ancillary expenses shall be charged to the Contractual Partner.

12.4. Suisse TP's invoices shall be paid within thirty (30) days of the invoice date. Offsetting is not permitted.

13. Diligence

13.1. Suisse TP shall perform its services applying due diligence using state of the art.

13.2. For testing, measuring and analytical services, the test results shall always be deemed to refer only to the test materials/samples provided by the Contractual Partner and examined by Suisse TP respectively. Suisse TP does not warrant that the test results may be the same for other deliveries of the same material, substance etc.

13.3. For the avoidance of any doubt: In case Suisse TP executes a feasibility study or applies new testing techniques or applies established techniques to a new field, a negative result (such as: a measurement was not possible or the feasibility is not given) shall not be regarded as poor / faulty services provided by Suisse TP.

14. Impartiality

The services of Suisse TP are provided under the aspect of impartiality. All employees are required to be guided by technical and scientific aspects when carrying out investigations and consultations. Client interests, personal interests or business interests contrary to the principles of good practice must not interfere in any way with the results of the research or advice.

15. Liability

15.1. Suisse TP shall be liable for any damages resulting from unlawful intent or gross negligence, subject to the limitations stipulated in the following Section.

15.2. Otherwise Suisse TP shall not be liable, irrespective of the legal basis; in particular Suisse TP shall – to the extent legally possible – not be liable for minor negligence, indirect damages and consequential damages.

16. Soliciting of employees

During the term of the contract, neither party shall solicit the other's employees except by mutual written consent.

17. Final provisions

Unless otherwise agreed, the place of performance shall be at Suisse TP's domicile in Neuhausen, Switzerland. Exclusive place of jurisdiction for all proceedings between the parties shall be the ordinary court competent for Schaffhausen (Switzerland). All relationships between the parties shall exclusively be subject to Swiss law.