

## General Terms and Conditions (T&C)

### 1. SCOPE OF VALIDITY

1.1 The following terms are used in these General Terms and Conditions with the following meanings:

“Entrepreneur” is any contractual partner who concludes the contract while exercising their commercial or independent professional activity. “Consumer” is any contractual partner who concludes the contract for a purpose that, predominantly, can neither be assigned to their commercial nor their independent professional activity.

1.2 All offers, services and deliveries of eco-INSTITUT Germany GmbH (“Contractor”), i.e. in particular laboratory tests (analysis service, material testing), evaluation of production processes, certifications with the “eco-INSTITUT label” or another national or international quality seal of a third-party provider, including the preparation of laboratory reports, assessments and expert opinions, are carried out exclusively on the basis of these General Terms and Conditions. The terms and conditions are an integral part of all contracts concluded by the Contractor with the respective client (“Client”) for the services or deliveries offered by the Contractor. These terms and conditions also apply if the Contractor carries out their services without reservation in the knowledge of conflicting or deviating terms and conditions of the Client. With regard to entrepreneurs and legal entities under public law, these terms and conditions also apply to all future business relationships.

1.3 Any conflicting or deviating terms and conditions of the Client will only become part of the contract if the Contractor expressly acknowledges them in writing.

1.4 In addition to these terms and conditions, the “Testing and Certification Regulations” (“TCR”) apply to the testing and certification activities of the Contractor. In the event of any contradictions between these terms and conditions and the TCR, the provisions of the TCR take precedence.

### 2. QUOTATIONS; CONCLUSION OF CONTRACT

2.1 All quotations by the Contractor are subject to change and non-binding unless they are expressly indicated as binding or contain a specific deadline for acceptance.

2.2 A contract with the Contractor will not be deemed to have been concluded until the Client accepts an offer by the Contractor

without reservation or receives a written order confirmation from the Contractor or the Contractor begins to perform the service. If the Contractor issues a written order confirmation, this will be decisive for the content and scope of the contract, unless expressly agreed otherwise.

2.3 The contract concluded in writing, including these General Terms and Conditions, will be solely decisive for the legal relationship between the Contractor and the Client. This fully reflects all agreements between the parties on the subject of the contract. Verbal commitments by the Contractor prior to the conclusion of this contract will be legally non-binding and verbal agreements by the parties will be replaced by the written contract, unless it is expressly stated in each case that they continue to apply on a binding basis. Additions and amendments to the agreements concluded, including these General Terms and Conditions, must be made in writing to be effective.

2.4 In the event that the Contractor is called upon to provide their expert opinion, the subject of the expert report and its intended use will be specified in writing when placing the order. It should be noted that expert reports commissioned by the Client are private reports that cannot achieve the effects of an expert opinion in court-ordered independent proceedings for the preservation of evidence (Section 485 ff of the German Civil Process Order (ZPO).

### 3. PERFORMANCE OF THE CONTRACT

3.1 The Contractor will render the contractually owed services impartially and to the best of their knowledge and belief.

3.2 The transport and possible return transport of the Client’s items will take place at the Client’s expense and risk. Items will only be returned to the Client if this has been expressly agreed or if the Client expressly requires this in writing. If the Client provides test material to the Contractor, this material will be retained for a period of 3 months after the performance of the last contractually owed service and then disposed of at the Client’s expense. When storing the Client’s items, the Contractor’s liability is limited to their usual standard of care.

3.3 If the performance of the service owed by the Contractor involves interference with items belonging to the Client, the Contractor will not be responsible for providing compensation for any damage or destruction of these items resulting from the contractual performance.

3.4 The Contractor has the right to have the services incumbent upon them carried out by a subcontractor which they consider appropriate, such as an external expert. The Client's obligations set out in this Section 4 also apply to the Contractor's subcontractors. The Client does not have any right of instruction vis-à-vis employees or subcontractors.

3.5 In the event that the Contractor is called upon to provide their expert opinion, the report prepared will be made available to the Client in writing and in a single copy, with the name of the expert responsible for its preparation. Further copies will be invoiced separately to the Client, unless expressly agreed otherwise.

3.6 Notwithstanding the services provided by the Contractor, in particular laboratory testing or other testing or certification activities, including the preparation of expert reports, the Client will continue to be responsible for the warranty for defects for the tested or certified products, for product monitoring obligations and product liability, and the other legal obligations of a manufacturer. In particular, when performing laboratory testing for technical safety, the Contractor provides no guarantee that the tested product is free from other deficiencies, unless this has been expressly agreed.

#### 4. OBLIGATIONS OF THE CLIENT

4.1 Insofar as collaborative actions are required from the Client for the performance of the contract, the Client will provide these in good time and at their own expense. No reimbursement of expenses will take place unless otherwise expressly agreed in writing. If the Client does not comply with the obligations to cooperate or does not comply in time and is therefore in default, the Contractor may invoice the additional expenses incurred by them.

4.2 In the context of collaborative actions in accordance with Section 4.1, the Client will, in particular, fully hand over to or notify the Contractor of all items, documents and/or information relevant for the performance of the contract. There is no obligation on the Contractor to inspect the completeness and correctness of the items, documents or information communicated/provided, unless there is a reason for this, taking into account the circumstances of the individual case, or the inspection has been expressly agreed as a performance obligation by the Contractor.

4.3 If the Client provides the Contractor with products or other materials that are or are intended to be the subject of testing or certification activities, these products/materials must originate from the Client's series production in accordance with the sampling specifications of the Contractor ", available at [www.eco-institut.de](http://www.eco-institut.de), and must be representative of the products/materials to be tested and/or certified. The Client will provide a corresponding written confirmation by countersigning a sampling form accompanying the products/materials provided.

4.4 Insofar as acceptance has to take place, this cannot be refused by the Client due to insignificant defects. In the event of an acceptance obligation, the Client is obliged to accept the Contractor's services within 14 days of completion and upon request by the Contractor, unless the Client refuses to accept within this period, stating at least one defect. If the Client does not accept the service

within the set period despite the Contractor's request, although they are obliged to do so, the service will be deemed to have been accepted. If the contractual partner is a consumer, the Contractor undertakes to expressly inform the Client, together with the request for acceptance, of the consequences of an undeclared or refused acceptance without stating defects.

#### 5. CONFIDENTIALITY

5.1 The parties are obliged to maintain confidentiality regarding confidential information of the other party. This obligation continues to exist for a period of three (3) years after the termination of the contract. Regardless of the medium in which it is contained, confidential information is considered to be, in particular, products, manufacturing processes, know-how, trade secrets, business relationships, business strategies, business plans, financial planning and personnel matters.

5.2 The confidentiality obligation excludes information for which the receiving party demonstrates that it:

- Belongs to the state of the art at the time of transfer or is publicly known or becomes publicly known after disclosure to the receiving party through no fault of the receiving party;
- Was known to them before the transfer, or
- Was communicated to them by a third party without the third party having breached a duty of professional secrecy which they have assumed vis-à-vis the provider of the information;
- Must be disclosed on the basis of legislation, legal orders, regulatory requirements or final decisions. To the extent legally permissible, the receiving party will inform the disclosing party without undue delay of the relevant decisions by the authorities or the court;
- Has been procured or developed by the receiving party independently of the provider, irrespective of the transfer and without any breach of confidentiality obligations.

5.3 In the event that the Contractor is called upon to provide their expert opinion, the Contractor is also prohibited from using the expert opinion itself or parts thereof for their own purposes.

5.4 The Contractor will retain contract-related documents if there is a legal or official requirement to do so. In addition, the Contractor is entitled to store such documents for documentation purposes; any statutory or contractual surrender claims by the Client remain unaffected.

## 6. RIGHT OF USE

6.1 The services provided by the Contractor while performing the contract may only be used within the scope of the agreed purpose of use. Unless otherwise agreed, the Contractor grants the Client a non-exclusive, non-transferable right of use for copyrighted services, limited in time and space to the respective purpose of the contract. The Client is not entitled to edit, change or use the services of the Contractor in a modified form or only in part. There is also no right to sublicensing.

6.2 In the event that the Client is granted the right to use the "eco-INSTITUT label" or another national or international quality seal of a third-party provider to the extent agreed in each case, this label or quality seal may only be used for the agreed purpose, in particular the certified product or the certified area, and can only be used in the unmodified form as provided by the Contractor. Any further use of the brands and other labels of the Contractor requires the prior express written consent of the Contractor.

6.3 In the event of a breach by the Client of the obligations of this Section 6, the Client will be obliged to comply with all claims of third parties arising from the use of the services provided by the Contractor, the label "eco-INSTITUT label" or another national or international quality seal of a third-party provider and/or the brands or other labels of the Contractor and indemnify against all related expenses upon first request. This includes, in particular, the appropriate legal defence costs of the Contractor.

### 6.4 Advertising with test reports

As regards advertising with the Contractor's laboratory reports produced in the context of testing or certification activities, the information "Advertising with test reports", available at <https://www.eco-institut.de/en/advertising/>, also applies.

According to this, the following principles apply to advertising with test reports:

- **Laboratory report without assessment:** The test results in the report refer exclusively to the test specimen submitted by the Client. The report is not permitted to be used in product and company advertising.
- **Laboratory report including assessment according to a legal regulation:** The test results in the report refer exclusively to the test specimen submitted by the Client. The report is not permitted to be used in product and company advertising. The report may be published in full as technical documentation on the Internet with the written consent of the Contractor. The Contractor recommends that the Client repeats the test after 3 years at the latest.
- **Laboratory report including assessment according to a voluntary third-party label (quality seal):** The test results in the report refer exclusively to the test specimen submitted by the Client. The report serves exclusively for submission to the awarding authority for the respective third-party label. The report is not permitted to be used in product and company advertising.

- **Certification:** The report immediately loses its validity upon changes to the composition or the production method of the certified product. The publication of extracts of the inspection report requires the prior written approval of the Contractor.

In the event of any conflict between the information "Advertising with test reports" and these General Terms and Conditions, the Terms and Conditions take precedence.

## 7. PRICES; PAYMENTS

7.1 The agreed price otherwise invoiced by the Contractor for the service in question, plus VAT at the statutory rate, insofar as this is due, is decisive. In the case of cross-border services, any taxes, fees, duties and other charges (of any kind) incurred for the cross-border service will be borne by the Client. The Client is also required to pay if the laboratory testing and/or certification of the respective product is not successful.

7.2 The agreed remuneration is due within 14 days of receipt of the invoice by the Client.

7.3 Payment instructions, cheques and bills of exchange are only accepted upon special agreement, taking into account all collection and discount charges, and only for the purpose of payment.

7.4 In the event of non-compliance with payment terms, the Contractor is entitled to make all remuneration requests immediately due. This also applies if bills of exchange and cheques are not cashed.

7.5 The Client only has a right to off-setting and retention if their counterclaims have been legally established, are indisputable or recognised in writing by the Contractor. This restriction does not apply to claims of the Client for defects resulting from the same contractual relationship as the Contractor's claim for payment. If the contractual partner is a consumer, they are generally entitled, notwithstanding clause 1, to unrestricted rights of retention due to claims arising from the same contractual relationship.

## 8. TERMINATION

8.1 The Client and Contractor may terminate the contract at any time for good cause. The termination must be declared in writing.

8.2 Good cause that entitles the Contractor to terminate the contract includes in particular:

- The refusal of the Client to perform the collaborative actions;
- The Client's attempt to influence the provision of services by the Contractor in an unlawful manner;
- The Client's violation of the provisions of the Contractor's Testing and Certification Regulations;

- The use of an expert report prepared by the Contractor or parts thereof outside the agreed purpose;
- Unauthorised publication (dissemination or making available to the public) of an expert report prepared by the Contractor;
- It is established only after the acceptance of the order that the Contractor lacks the expertise necessary to complete the respective order.

8.3 If the contract is terminated for a good cause for which the Contractor is responsible, the Contractor is entitled to remuneration for the partial service performed up to the date of termination only to the extent that it is objectively usable by the Client.

8.4 In all other cases, the Contractor retains the right to the full, contractually agreed remuneration, but following the deduction of any expenses saved. Provided that the Client does not demonstrate a higher share of saved expenses on an individual basis, this will be agreed at 40% of the remuneration for the services not yet provided by the Contractor.

## 9. DEADLINES AND DATES

9.1 If no binding performance date has been agreed, the Contractor will not be in default until the Client has previously set a reasonable deadline in writing or in text form for providing the service owed without any result. Performance periods will only begin to run from the full performance of all collaborative actions owed by the Client and – if a down payment has been agreed – from the date of its receipt. Subsequent requests for changes or delayed collaborative actions by the Client will extend the performance periods appropriately.

9.2 The Contractor will only be in default if they are responsible for the delay in delivery. In the event of unforeseeable delivery impediments that are not attributable to the Contractor, such as cases of force majeure (in particular strikes, legal lock-outs, operational disruptions, transport hindrances, sickness, including on the part of any upstream suppliers of the Contractor), the Contractor is entitled to postpone performance for the duration of the delivery hindrances. In the event that these delivery hindrances persist for more than six weeks, the Contractor is entitled to withdraw from the contract. In this case, the Client is not entitled to claim damages.

## 10. WARRANTY

10.1 As a warranty, the Client may initially only require the free rectification of a defective report. This requires a grace period of reasonable duration to be set.

10.2 If no improvements are made within a reasonable period of time or if the rectification fails, the Client may demand the rescission of the contract (conversion) or reduction of the fee (reduction).

10.3 Defects must be communicated to the Contractor in writing immediately after detection; otherwise the warranty claim expires.

10.4 Claims due to defective expert performance become time-barred after one year. The statutory period of limitation commences upon receipt of the report by the Client.

10.5 In the absence of assured properties, the entitlement to claim for damages remains unaffected.

## 11. LIABILITY

11.1 In the event of intent and gross negligence, liability is subject to the statutory provisions.

11.2 In other cases, unless otherwise stipulated in Section 11.3, liability is only accepted in the event of a breach of a contractual obligation, the fulfilment of which makes the proper performance of the contract possible in the first place and on compliance with which the Client may regularly rely (called a material contractual obligation), and is limited to compensation for predictable and typical damage. Any further liability is excluded subject to the provisions of Section 11.3.

11.3 Liability for damages due to injury to life, limb or health and in accordance with the German Product Liability Act remains unaffected by the preceding liability restrictions and exclusions.

11.4 The aforementioned liability limitations and exclusions include all claims of the Client against the Contractor, their employees, representatives, vicarious agents and their auxiliaries arising from the contract or its execution, including any claims under Section 280 of the German Civil Code (BGB) and recourse claims of the Client.

## 12. DATA PROTECTION

The processing of personal data is carried out in accordance with the applicable legal provisions, in particular the General Data Protection Regulation and the German Federal Data Protection Act. Regarding the handling of personal data, please refer to the Contractor's privacy policy, which is available at <https://www.eco-institut.de/de/datenschutzerklaerung/>.

## 13. FINAL PROVISIONS

13.1 The place of fulfilment is the registered office of the Contractor, unless otherwise specified.

13.2 The assignment or pledging of claims to which the Client is entitled from the business relationship with the Contractor is excluded.

13.3 The law of the Federal Republic of Germany applies to contracts between the Contractor and Client, with the exclusion of German International Private Law (Art. 3 to 46 of the Introductory Act to the German Civil Code (EGBGB) inclusive) and the UN Convention on Contracts for the International Sale of Goods. The statutory provisions limiting the choice of law and the applicability of mandatory regulations, in particular those of the country in which the Client as a consumer has their habitual residence, remain unaffected.

13.4 The place of jurisdiction for all claims against merchants, legal entities under public law or special funds under public law arising from the business relationship is the registered office of the Contractor. However, the Contractor is also entitled to sue the Client at their general place of jurisdiction or at the special place of jurisdiction of a branch office.

13.5 The contract will retain its binding effect even if individual provisions or terms should become legally invalid. Insofar as a contract or these General Terms and Conditions contain loopholes, the legally effective provisions which the contractual partners would have agreed upon, had they known about the loophole, in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions will be deemed to have been agreed upon.

13.6 The Contractor does not participate in dispute resolution proceedings before a consumer arbitration board in accordance with the Consumer Dispute Resolution Act (VSGB).

Cologne, March 2021  
eco-INSTITUT Germany GmbH

Note: This agreement has been translated from German into English. In case of any dispute, the authoritative version remains the German version.