



Status: January 2021

GTC – General Terms and Conditions

of IBS – Institut für Brandschutztechnik und Sicherheitsforschung GmbH

1. Scope

These General Terms and Conditions apply to all quotes drafted, services performed and deliveries made by our company. They also represent a framework agreement for all further legal transactions that we conclude with our customers and they become a part of the contract. We do not accept any contrary or deviating terms of the customer, unless they are expressly confirmed or approved by us in writing. Any deviations from these GTC, which have been expressly negotiated in individual contracts and confirmed in writing, shall take precedence with simultaneous validity of the remaining provisions of these GTC. These GTC can be expanded specifically for individual contracts by supplementing GTC.

2. Conclusion of the contract

The contract will become effective either by the customer's acceptance of the written quote prepared by us, by the signing of the written contract with the company signatures of both parties, by written acceptance of the customer's offer by us, or by our written acceptance of the order form completely filled out and signed by the customer with its company signature, when the customer has submitted to us all attachments indicated in the form as required it. Any change and amendment to the contract – including any deviation from these terms – requires our written confirmation, which may also be given validly by email. Our customers accept that they will be attributed with the actions of persons working for them, in particular as relates to the signing of offers and contracts, regardless of whether or not these persons are authorised for such.

3. Survey on site, customer's duties to cooperate

The customer shall make the documents required or the fulfilment of the contract available in the requested form, on time and free to the place of delivery, and provide us with all requested information. If inspections on site, visits and checks on site are required for the performance of our services, the customer will be obligated to cooperate in the survey or check at its own cost and risk, and if required, permit access to the relevant properties or the building part to be checked in such a manner that an unobstructed fulfilment of the contract can take place. In addition, the customer is obligated to inform us on time about the necessary safety training and protective equipment required on site. In particular, the customer shall take all measures necessary for the protection of third parties' rights. In the course of the work on site, it will usually be necessary to take digital photos of objects for the purposes of documentation for the specific assignment. For this purpose, the customer shall grant its agreement or obtain it from third parties insofar as required.

4. Approvals from authorities, agreements of third parties

If approvals from authorities should be required for our services, we will not be liable for the approvals actually being granted. The price agreed for the performance of our services shall therefore also be paid if a permit or approval is not granted.

The customer shall obtain any approvals from authorities or agreements of third parties that are required for the fulfilment of the contract at its own cost and prove these costs to us. The customer shall fulfil all information requirements on its own initiative.





5. Withdrawal

Withdrawal from the contract is permissible only for good cause.

We have a right to withdraw from the contract, in particular if:

- a) the execution of agreed tasks or their continuation becomes impossible or would be significantly delayed or if it is not economically acceptable for reasons outside of our responsibility;
- b) circumstances of the customer's lacking ability to pay or its poor economic situation become known and if it does not make a prepayment upon our request;
- c) the customer violates our contractual interests contrary to duty;
- d) the customer does not fulfil its duties to cooperate in spite of a grace period set;
- e) the customer comes in arrears with the agreed payment of one of our performed partial services in spite of a grace period set;
- f) the customer offers, promises or grants a financial advantage directly or indirectly to one of our employees for reason of the performance of the contract or if it makes itself in whatever way criminally liable in the context of the contract performance.

If we have a right to withdraw from the contract, we will retain the claim to the entire agreed fee.

The same applies in the event of an unjustified withdrawal by the customer.

If we are in default of performance, the customer will have a right of withdrawal only after setting an appropriate grace period; the grace period shall be set by way of registered letter.

In the event of a justified withdrawal from the contract by the customer, all costs incurred in connection with the preparation or implementation work for the performance of the contract shall be reimbursed to us and the already performed services shall be paid.

6. Prices, fee for additional services

Our prices are based on our relevant guidelines in observation of the legally prescribed weekly working times. Contract services can generally be performed only during the regular working time. If work outside of this regular working time is required, a separate agreement shall be made. The additional expense resulting from this shall be invoiced to the customer. If additional services are ordered by the customer or its representative in the course of the performance of the contract, these shall be performed by us insofar as possible. A right to appropriate remuneration for these services applies.

7. Dates and delivery deadlines

The customer is obligated to bindingly observe the contractually agreed dates for cooperation. This shall also apply to the dates specified in the confirmation of the order, unless the customer has objected in writing immediately upon taking notice of the dates set by us. If set dates cannot be kept for reasons in the customer's responsibility, the customer shall inform us immediately. Postponements of dates that are caused by the customer shall become binding by our written confirmation. Additional costs that result from the aforementioned postponements or from changes or failure to provide documents will be invoiced by us.

We work towards meeting our assured dates and delivery deadlines on time. However, it can occur that dates have to be postponed on short notice because of unanticipated workload, or due to illness or in the case of non-negotiable dates set by authorities of which we will inform the customer immediately. Compensation for any losses due to delay or any consequential damages of any kind caused for the customer for this reason is expressly excluded and such postponements do not entitle the customer to withdraw from the contract.

If the beginning of the performance of the service or the execution itself are delayed and if the delay is not caused by circumstances that are within our responsibility, the bindingly agreed dates and deadlines including the "guaranteed" dates or dates agreed as "fixed" shall be postponed accordingly. In the event of subsequent changes to the scope of service or in case of missing or belated provision of required documents, we shall no longer be bound by the dates. In that case, we will invoice the customer for the additional costs incurred due to the delay.

If the customer does not remedy the circumstances that have caused the delay within an appropriate period set for this by us, we shall be entitled to dispose otherwise over the materials, equipment or other services already provided by us for the execution of the service. In the event that the service performance is continued, all dates and deadlines shall prolong for the period that is required to reobtain this equipment and these materials used elsewhere.



8. Warranty and damage compensation

We warrant that our services meet the standards and guidelines respectively agreed by contract. **The warranty period is 6 months from the handover of the agreed services to the customer.** We can only fulfil the customer's specialised instructions – due to our position as experts – to the extent that we can professionally justify them. Our services must be checked directly upon the handover of the agreed service. Any defects of a complete or partial service must be notified by the customer, in writing stating the exact description of the defects and without delay, whereas at the latest 30 days after the transfer of this complete or partial services with a loss of claims for warranty, damages and errors otherwise. The customer has the burden of proof to demonstrate that the defect was already present at the time of the handover/acceptance.

We shall be liable for direct damages only if the customer proves gross negligence or intent to us or our vicarious agents. In case of simple negligence, we shall be liable exclusively for personal injuries. Liability for indirect damages and all consequential damages from defects (in particular lost profit or other consequential damages) is excluded. **Our liability under the damage compensation title shall lapse by limitation at the latest 6 months from notice of the damage and the damaging party.** Our liability is limited in the amount – also for such services that we perform in the non-accredited field – of the minimum liability insurance sum required under the respectively current version of the Accreditation Insurance Ordinance (*Akkreditierungsversicherungsverordnung*, "AkkVV").

The customer shall be liable for all damages caused by a violation of its obligations and it shall hold us harmless from any claims of any kind whatsoever that are brought by third parties.

9. Prohibition of set-off, withholding of payments

The customer has no right to offset our claims against its own claims of whichever kind.

In case of justified notices of defects, except in cases of reversal, the customer has a right not to withhold the entire but only an appropriate part of the gross invoice total.

10. Intellectual property and special rights, confidentiality obligation

Plans, sketches, cost estimates and other documents that have been made available by us or created with our contribution shall remain our intellectual property. The same applies to the rights to use work of applied IT programmes and calculation models. The use of these documents, programmes, and calculation models outside of the use as intended, in particular dissemination, reproduction, publication, and provision including making copies merely of excerpts requires our explicit consent.

In absence of agreements stating otherwise, it shall be at our discretion to publish expert reports resulting from the service performance in full or in excerpts, and to use the information gained from them at our sole discretion without compensation of costs. We are furthermore entitled to name orders as references.

The customer is obligated to treat the knowledge it receives from the business relationship as confidential in relation to third parties. The customer is not permitted to create audio and video recordings without our explicit approval in the course of the performance of services.

11. Severability clause

Should individual provisions of this contract be fully or partly invalid or impracticable or prove to be invalid or impracticable in consequence of changes by way of legislation after the conclusion of the contract, the remaining provisions of the contract and the validity of the contract on the whole shall remain unaffected. Instead of the invalid or impracticable provision, such valid and practicable provision shall apply, which comes closest to the meaning and purpose of the void or invalid provision.

12. Choice of law, place of fulfilment, place of jurisdiction

All contracts are governed exclusively by Austrian law to the exclusion of the UN Convention on Contracts for the International Sale of Goods. The place of our company's registered office in 4020 Linz is agreed as the place of fulfilment and place of payment. For any disputes with business customers, the substantively competent court in Linz is agreed as the legal venue with jurisdiction.

13. Data privacy

The Data Privacy Policies of the company can be accessed at <https://www.ibs-austria.at/en/data-privacy-notice-of-bvs-group/>.



14. Confidentiality

The IBS is responsible for the handling of all information received or created in the course of the performance of the laboratory work. Furthermore, we will inform our customers in advance of which information we intend to make freely accessible. All other information is regarded as protected information and treated as confidential, unless the information is made publicly accessible by the customer or it has been agreed otherwise between the IBS and the customer (e.g. for the purpose of responding to complaints).

If the IBS should be authorised or legally obligated to disclose confidential information, we will inform the customer concerned or the person concerned of the disclosed information, unless this is prohibited by law.

Information about our customers, which originates from sources other than them (e.g. from a complainant or supervisory authorities) shall be treated as confidential between the customer and the IBS. The sources of information are treated as confidential by the IBS and they will not be shared with customers without their agreement.

The German wording of these GTC is the only legally binding language version. In the event of any discrepancy between the German wording and the English wording, the German wording shall apply.