

5. Utilisation Regulations



5.2 General Conditions of Use (Work & Services)

April 2017

GENERAL BUSINESS CONDITIONS OF ROBERT BOSCH GMBH FOR WORK AND SERVICES OF THE BOXBERG PROVING GROUND

1. Validity

Applicable to business dealings with companies, legal persons under public law and separate estates under public law.

(1) Only the terms below shall apply for the performance in the form of work or services rendered by Robert Bosch GmbH (hereinafter referred to as the "Contractor") for the customer. Terms and conditions that differ from or are contrary to the provisions herein shall not apply, unless their validity has been expressly agreed by the Contractor. The terms below shall also apply if the Contractor or his agent renders the performance without reservation in the knowledge of terms of the Customer that differ from or are contrary to the terms herein.

(2) These terms and conditions shall apply to present and future performances until such time as new terms and conditions come into force.

2. Object and Scope of Performance

(1) The Contractor or his agent shall perform engineering work on and with motor vehicles in accordance with the agreed scope of performance. The said scope of performance shall comprise, in particular, elements such as workshop services, the conversion and equipping of vehicles, test drives, application support and the performance and analysis of test series. The scope of performance shall only be binding for the Contractor insofar as it has been agreed in writing by the Contractor and the Customer. If changes or additions to the agreed scope of performance arise during the course of the correct rendering of services, these shall also be agreed in writing.

(2) Test drives ordered by the Customer shall generally be performed on camouflaged prototypes made available by the Customer on the testing ground of the Boxberg Proving Ground, but also on other testing grounds and on public highways.

3. Offer and Order

All offers by the Contractor are without engagement, unless otherwise specified in the offer. Contracts or other binding agreements can only be concluded on the basis of a written confirmation of an order by the Contractor or by the execution of the order. The Contractor reserves the right to make minor alterations to an offer for technical reasons, even after acceptance of the said offer.

4. Remuneration; Terms of Payment

(1) Remuneration for the performance is determined in the contract and does not include turnover tax. Remuneration may be adapted as a result of subsequent amendments to an order. Furthermore, the Contractor reserves the right to amend the remuneration to a reasonable extent in the event of reductions or increases in costs after the conclusion of the contract, in particular due to changes in labour costs incurred e.g. as a result of wage deals or changes to material prices. The Contractor shall prove such changes to the Customer if requested to do so.

(2) Cost estimates are not binding and with cost, unless otherwise expressly agreed.

(3) Any cancellation costs for external services ordered from third parties by the Contractor or his agent (in particular, driving safety courses, driving demonstrations) on behalf of the Customer shall be invoiced to the Customer.

(4) An invoice for the performance shall be drawn up monthly or on completion of the order. Unless otherwise agreed in writing, payment shall take place within 15 calendar days of the date of invoice without any deductions for prompt payment. In the event of delayed payment, the Contractor shall be entitled to demand interest on arrears to the amount accorded by the law. This contract does not preclude the Contractor's right to assert claims for further damages.

(5) The Customer may only offset claims that are undisputed and res judicata against claims asserted by the Contractor.

5. Liability of Defects in respect of the Work

(1) In respect of work performed, the Contractor guarantees that the characteristics agreed in the contract shall be satisfied and shall conform to the scope of performance agreed in the contract.

(2) In the event of a material defect within the period of limitation, the cause of which was already present at the time of acceptance, the Contractor may fulfill his obligations either by eliminating the defect or by redoing the work.

(3) If the Contractor fails to fulfill his obligations through corrective measures, the Customer may – notwithstanding any claims for damages – withdraw from the Contract or reduce the remuneration, in accordance with the law.

(4) Claims for material damages in respect of work performed shall be subject to a limitation period of 12 months. The above condition shall not apply insofar as longer limitation periods are stipulated by the law as per §§ 438 Para. 1 No. 2 (Structures and Objects for Structures), 479 Para. 1 (Right of Recourse) and § 634a (Structural Defects) of the German Official Federal Gazette. The limitation period for material defects shall commence upon acceptance. The period of limitation does not start again from the beginning following corrective measures undertaken by the Contractor to fulfill his obligations.

(5) Claims for material damages shall not be valid in the case of minor deviations from the agreed characteristics.

(6) The Customer shall give notice in writing of material defects immediately after their discovery.

(7) In all other respects, liability for damages and compensation of futile expenses within the meaning of § 284 of the German Official Federal Gazette shall be governed by Item 6. This contract precludes more extensive claims for material defects on the part of the Customer or claims by him that are not covered by the present Item 5.

(8) Defects of title that are not based on the violation of the property rights of third parties shall also be governed accordingly by the terms of this Item 5.

6. Liability

(1) The Contractor shall be liable for damages and compensation of futile expenses within the meaning of § 284 of the German Official Federal Gazette (hereinafter referred to as “Damages”) as a result of the violation of contractual or non-contractual obligations only

- (i) in the case of intent or gross negligence
- (ii) in the event of death, injury or damages to health caused intentionally or through gross negligence
- (iii) in the event of violations of important contractual obligations with intent or through gross negligence
- (iv) on the basis of mandatory liability in accordance with the Product Liability Act
- (v) on the basis of other mandatory liability enforced by law.

(2) Damages awarded for the violation of important contractual obligations shall be limited to foreseeable damages typical for this contract, however, insofar as they have not been incurred intentionally or as a result of gross negligence, they are not claimed on the basis of death, injury or damage to health or on the basis of the adoption of a warranty of the condition and quality of the goods.

(3) The above provisions do not involve a change of the burden of proof to the disadvantage of the Customer.

7. Conclusion and Proof of Insurance Contracts; Release from Liability by the Customer

(1) Test drives using vehicles provided by the Customer shall be conducted on the assumption that the Customer has taken out motor insurance for these vehicles with a minimum insured sum of EUR 50 million overall. The Customer may at his discretion insure the vehicles against damages, whatsoever the cause, while they are entrusted to the Contractor or his agent. The Contractor shall be liable solely within the framework and scope of the preconditions contained in Item 6.

(2) In the event that the agreed scope of services includes the performance of vehicle tests or vehicle component tests for the Customer by the Contractor or his agent using vehicles provided by the Customer, and the Customer is involved in the performance of these services, steps must be taken to ensure that the Customer has taken out comprehensive manufacturer’s liability insurance for this purpose with a minimum insured sum of EUR 5 million for personal injury, damage to property and pecuniary losses.

(3) Prior to the performance of test drives or services, the Contractor or his agent shall, on request, be furnished with proof that the insurance policies cited in Items 7(1) and (2) have been taken out, in the form of a copy of the insurance certificate or similar documents.

(4) The Contractor or his agent shall be entitled to deny the right to perform test drives, vehicle tests or vehicle component tests until he has received proof of sufficient insurance

coverage under the terms of this contract. In this case, no claims for damages (due to delays, in particular) shall be permitted.

(5) The Customer hereby releases the Contractor or his agent from all claims by third parties, which can be asserted against him as the operator of the Proving Ground or user of the vehicles due to causes for which the Customer, his employees, other persons employed by the Customer or third parties contracted by him are responsible. This shall also apply in the event that the Customer is able to claim on his insurance policy for an incident incurred by the Contractor or his agent. In this case, the insurer shall be deemed to have agreed a waiver of recourse in favour of the Contractor or his agent.

8. Force Majeure

(1) In the event of force majeure or other disturbances for which the Contractor is not responsible – e.g. war, terrorist attacks, industrial disputes, closure of the testing ground or individual test routes – the agreed periods for the rendering of the performance shall be extended accordingly.

(2) Furthermore, if the Contractor is unable to render the performance for more than five days as a result of the circumstances named in Item 8 (1), he shall be entitled to withdraw from the contract. Services rendered by the Contractor until such withdrawal shall be remunerated.

(3) Claims for damages on the part of the Customer asserted on the basis of circumstances named in Item 8 (1) are not permitted.

9. Termination

(1) The Customer or the Contractor may terminate a contract without notice in writing on important grounds, in the event that the other party to the contract does not fulfil his contractual obligations after a reasonable period of grace has elapsed. There shall be no right of termination in the event of insignificant violations of the contract, however.

(2) In the event of termination by the Customer, the latter is under obligation to pay the agreed remuneration in accordance with § 649 of the German Official Federal Gazette.

10. Secrecy

(1) All commercial or technical information and data originating from the Contractor, as long as and insofar as they are not demonstrably public knowledge, shall be kept secret from third parties and may only be made available in the Customer's own business to persons who are required by necessity to make

use of them and who are also under obligation of secrecy. Such information and data shall remain the exclusive property of the Contractor. Information and data of this nature shall not be reproduced or employed for commercial purposes without the prior written consent of the Contractor. All information and data originating from the Contractor (including any copies or recordings that have been produced) shall be returned to the Contractor or destroyed immediately and in their entirety at the Contractor's request.

(2) The Contractor disposes of all rights in respect of the information and data named in Item 10 (1).

11. Other Terms and Conditions

(1) In the event that a provision in these conditions and the respective associated agreements is or becomes ineffective, the validity of the remaining terms and conditions shall not be affected. The parties to the contract are under obligation to replace the ineffective provision with a regulation that is as equal as possible to the original provision in terms of economic success.

(2) The place of jurisdiction is Stuttgart.

(3) All legal relationships between the Contractor and the Customer shall be subject to German law to the exclusion of the conflict of laws provisions.