



## TERMS AND CONDITIONS

### FORSCHUNGSINSTITUT FÜR WÄRMESCHUTZ E.V. MÜNCHEN (FIW)

As regards all services of the FIW, the following terms and conditions apply unless a special written agreement is reached between the FIW and the client. If the agreement concerns only individual and specifically additional conditions of the order, the terms and conditions of the FIW apply in supplement thereto.

#### 1. Allocation of Contract

- 1.1. The contract is binding upon the FIW, if it is explicitly agreed on by the FIW. All conditions other than stipulated in these terms and conditions require being done in writing. Verbal collateral agreements are not valid.
- 1.2. If no determined date regarding the services of the FIW was agreed on, they are dealt with by the FIW in accordance with the existing personnel and technical capacities in the order of the accepted contracts.
- 1.3. The FIW carries out its services on the basis of the rules of science and technology and of the specific regulations being effective as to the testing procedures to be applied. The FIW deals with the orders with such diligence as is necessary for its appropriate execution. The results of testing and expertise are given in writing.

#### 2. Liability

- 2.1. The FIW is only liable for damages caused due to deliberate or grossly negligent violation of its duties resulting from the contract. Non observation of the fixed deadlines on part of the FIW does not entitle the client to assert any damages due to delay or any other compensation if the client is a businessman, a legal entity of public law or a separate estate under public law. In any case, the compensation is limited to the direct damages and to the reimbursement sum of the testing fees at a maximum to the amount covered by the concluded liability insurance (personal injuries EUR 500,000.--, material or any other damages EUR 100,000.--).
- 2.2. The client exempts the FIW of those claims for compensation which a third party imposes because of the utilization of results in the field of consulting and testing as well as expertise.
- 2.3. If the services of the FIW concern a material object, the client in terms of the warranty is only entitled to claim subsequent improvement from the FIW. Should this improvement fail, the client is entitled to claim a reduction and, in case of total uselessness, refund of his payments made. The shipping risk is to the debit of the client. The warranty period ends 12 months after delivery. The client has to prove that the damages had not been caused either by inappropriate treatment or by damages incurred during the transport.

#### 3. Elimination of Deficiencies

Objections by the client to results in the field of consulting and testing as well as expertise oblige the FIW to reexamine the results. As to objections technically not justified, the client is obliged to reimburse the costs to the FIW as per the expenses incurred based on the rates stipulated in the FIW's pricelist.

#### 4. Compensation and Mode of Payment

- 4.1. As regards the services of the FIW, the compensation is calculated based on expenses incurred as per the FIW's pricelist as long as no fixed compensation had been agreed on separately. Any changes in the pricelist are becoming effective at the moment of its coming into force.
- 4.2. For orders which exceed definitely or probably a total amount of EUR 2,500.00 (without VAT), a payment of 50 % of the amount agreed on or the estimated one is due at the time of placing the order. The reminder falls due after the FIW having produced and charged the services.

- 4.3. In case the services to be produced by the FIW take more than a period of three months, the FIW, after the expiration of this period, is allowed to issue pertinent installment invoices as soon as and as long as the expenses incurred exceed the down-payments already made.
- 4.4. If the FIW cannot produce the services because the client – in spite of the FIW's requests – did not submit the documents or materials asked for in due time, the FIW is allowed to require the final accounts.
- 4.5. Services destined for foreign clients or countries are produced exclusively upon payment of the total amount as long as there was no other agreement. In the case of such an agreement, the FIW is allowed to ask for securities in form of a bank guaranty in accordance with the conditions of the FIW.
- 4.6. In addition to the compensation agreed on and based on the FIW's pricelist, the client has to pay the relevant VAT fixed by law.
- 4.7. Payments are to be effected cashless within the terms of payment mentioned on the invoice, otherwise within three weeks, onto the account of the FIW no. 544 527 at the Bayerische Hypo- und Vereinsbank AG, München, bank code 700 202 70, without any discount. The setoff against possible titles to compensation or performance guaranty is foreclosed.
- 4.8. In case the delays stipulated in 4.7 are not met, the client is considered as being in arrear even without having got a further reminder. Because of the damages due to delay, the FIW is allowed to claim without further proof an interest rate of 5 % above the base rate being effective at the time of the delay.

#### 5. Retention of Title

The FIW shall retain title to all deliveries and services until full payment of the amounts due including VAT had been effected. The client is neither allowed to transfer nor to pledge these items without the agreement of the FIW.

#### 6. Transport Risk and Storage of Testing Material

The client is liable regarding the risk and the costs of freight and transport of the testing material to and from the FIW. Damaged or otherwise useless testing material is placed at the FIW's disposal unless no other agreement had been made. Undestroyed testing material will be stored at the FIW for four weeks after conclusion of the testing and will become the property of the FIW unless no other agreement had been made or the client had requested the return of the material.

#### 7. Authority of Publication

It is allowed to publish the complete and unabridged version of test reports and expertise. An abridged publication in word, text and picture, sound, film and television as well as reference thereto in publications for the purpose of competing business publicity is only allowed after having obtained the permission of the FIW in each individual case. Any change regarding the denomination given by the client and/or the item examined is not allowed without the FIW's prior consent in writing. If however there are any violations, the FIW is allowed to assert a claim of damages amounting to 40 % of the costs for testing without individual proof. A further claim of damages is reserved.

#### 8. Other Conditions

- 8.1. As far as no other specific regulations than stipulated in these terms and conditions or no other written agreements were made, the standards in force for residents under the law of the Federal German Republic shall apply.
- 8.2. In the event one of these conditions should become partly invalid, this does not affect the remaining terms and conditions.
- 8.3. For both parties, München is the place of fulfillment and jurisdiction, as long as such an agreement is not excluded by law. As to the FIW's claims in view of reminder procedures, in particular München is the place of jurisdiction.