

Effective: 31. January 2017

## General Terms and Conditions (GTC)

### of the Hygiene-Institut des Ruhrgebiets, Institut für Umwelthygiene und Toxikologie (HY)

and its holder,

**the Verein zur Bekämpfung der Volkskrankheiten im Ruhrkohlengebiet e.V. (VzBdV)**

#### 1. General Terms / Scope of Application

- 1.1. The following terms and conditions are the basis of any contractual legal relations between the HY / VzBdV and its clients.
- 1.2. Clients (customers) conditions opposing or deviating from our terms and conditions will only be accepted if we have expressly agreed in writing.
- 1.3. The female form is equivalent to the male form in these GTC; merely for the sake of simplicity the male form has been selected.
- 1.4. The current version of the GTC is available for download on [www.hyg.de](http://www.hyg.de).

#### 2. Acceptance of Orders

- 2.1. We will only accept and process orders in writing (letter, fax, e-mail), specifying the client address as well as the complete billing address. For orders (billing addresses) from within the EU (from EU Member States) the specification of the VAT ID number is - if available - absolutely necessary (Intra-Community Services).
- 2.2. The client (customer) is obligated to promptly inform HY / VzBdV of any changes regarding their contact information or billing address.
- 2.3. Especially for new customers, we reserve the right to conduct a credit check.
- 2.4. Other delivery addresses and other recipient addresses (for example, health authorities) have to be provided when placing the order.
- 2.5. Subsequent changes to the information after placing the order entitle HY / VzBdV to charge an appropriate handling fee (according to expenditure). This applies especially if a change of already compiled documents or invoices is necessary.
- 2.6. For claims in the name of or on behalf of third parties the customer that provided the order to the HY/VzBdV is liable if the third party does not fulfill its obligation to make payment in due form and time.
- 2.7. Regarding transactions with consumers a right of withdrawal may apply. The cancellation policy attached to the GTC and/or as a download on [www.hyg.de](http://www.hyg.de) serves as a reference.

#### 3. Data Protection

- 3.1. Customer data (incl. sampling, result notification, billing) are only collected and stored to the extent necessary for the completion of the order. The data is stored within the limits of statutory regulations.
- 3.2. Should HY/VzBdV employ a third party when opting for a credit check of the customer, the data collected is evaluated for this purpose only.

## 4. Terms of Payment

- 4.1. After receipt of the invoice the contract fee is payable immediately, but no later than the date indicated on the invoice (30 days) without any deduction. If the invoice amount is not credited to our account within 30 days after receipt of the invoice, automatically, without notice, the payment is in default.
- 4.2. Should the customer be in default of payment, the HY/VzBdV is entitled to charge interest for the time. The default interest rate for legal transactions for consumers is 5 percentage points above the base interest rate and 9 percentage points above the base interest rate for legal transactions with companies and public institutions. Furthermore, for legal transaction with companies and public institutions, we reserve the right to charge a late payment fee of € 40.00. This fixed rate will be credited to damages if the damage is due to costs of prosecution.
- 4.3. For each reminder after default a minimum of € 3.00 will be charged. However, the HY / VzBdV may charge higher default damages. The customer remains entitled to prove that a lower damage was caused by delay of payment.
- 4.4. Pending full payment of due invoices the HY/VzBdV may suspend the provision of further services.
- 4.5. Generally, the VAT valid at the time of invoicing will be added to all services. This does not apply for services provided to companies in third countries or in countries within the European Union (Intra-Community Services) when the VAT-ID of the invoice recipient was provided to us.
- 4.6. The HY/VzBdV is entitled to offset payments against older liabilities contrary to the instructions of the customer; the HY/VzBdV will inform the customer of the changes and details of the offsetting. If costs and interest have already accrued, the HY/VzBdV is entitled to first credit the payment to the costs, then to the interest and then to the initial service.
- 4.7. The customer is entitled to compensation only if the counterclaim is undisputed or determined without further legal recourse.

## 5. Services

- 5.1. The HY/VzBdV will provide its services impartially, neutrally and perform them to the best of its knowledge. All Services are provided in accordance with recognized guidelines and in compliance with at the time current applicable regulations.
- 5.2. All services of the HY/VzBdV will provided exclusively during the general business hours of the HY/VzBdV. Exceptions must be arranged for each individual case.
- 5.3. To the extent necessary for the proper execution of services, the customer shall obtain all relevant information from all parties involved and make them available to the HY/VzBdV.
- 5.4. The scope of the services to be provided by HY/VzBdV is set out in writing when placing the order. Partial deliveries are possible, provided they are not unreasonable to the HY/VzBdV.
- 5.5. If changes and / or extensions to the scope of the contract become necessary to properly complete the order, these changes have to be agreed upon in writing before the continuation / completion of the contract between the parties. If the fulfillment of the contract due to necessary changes and/or extensions is unreasonable to the client, the client has the right of withdrawal. The client, however, has to pay the agreed compensation for services already rendered or in absence of an agreement pay an appropriate remuneration.
- 5.6. The HY/VzBdV strives to comply with the processing times specified in an offer. However, these times only serve as guidelines. In individual cases, unpredictable events and findings during processing can

lead to an extension of the processing time. In case of an impending significant delay the HY/VzBdV will inform the client immediately. Liability for an extension of the required processing time and its consequences is excluded.

## 6. Disclaimer of Liability of the HY/VzBdV

- 6.1. The HY / VzBdV is only liable for damages caused by intent or gross negligence. The breach of duty by intent or gross negligence of the HY/VzBdV is equal to the breach of duty by intent or gross negligence by its proxies or vicarious agents. The HY/VzBdV is liable for damages resulting from a negligent breach of contractual obligations, limited to the foreseeable typical damages. The liability due to simple negligence in breach of non-essential contractual obligations is excluded.
- 6.2. The limitation of liability does not cover damage due to culpable injury to life, body or health or liability is mandatory under the Product Liability Act.
- 6.3. Disclaimer for drinking water sampling points of the customer:  
As required by the Drinking Water Ordinance, the client is obliged to provide a suitable tap for sampling. This tap should withstand flame-scarfing for several minutes without taking damage.

## 7. Occupational Safety, Hazardous Materials, Liability of the Customer

- 7.1. For all sampling procedures, the provision of a suitable sampling site, not presenting any danger to life and limb (health) of our employees, applies. Any existing hazards or difficult accessibility have to be indicated by the client when placing the order.
- 7.2. The client is responsible for ensuring that the safety of the HY/VzBdV staff is always guaranteed on its premises and during sampling. Necessary precautions must be disclosed in advance.
- 7.3. If it is known or there is a reasonable suspicion that samples contain or may contain hazardous substances, the delivered test material samples must be marked accordingly or the customer has to provide a notice in writing.
- 7.4. If the client sends material (especially temperature-sensitive biological material) to the HY/VzBdV, the client is obliged to contact the HY/VzBdV beforehand and procure a written agreement with arrangements regarding time and date of delivery. Otherwise the HY/VzBdV rejects any liability for a default of acceptance.
- 7.5. The client is liable for the adequate quality and quantity and the fully and correctly declared identity of the material (in particular the classification of the material by Infection Protection Act (IfSG)/ Ordinance on Biological Agents (BioStoffV) / Technical Rules for Biological Materials (TRBA) / GE-Safety Ordinance (GenTSV) / Ordinance on Hazardous Substances (GefStoffV) and appropriate packaging and labeling (eg by IATA / AD-R)). The client can be held liable for damages incurred by the HY/VzBdV or its vicarious agents due to failed identification.

## 8. Retained samples and large sample volumes

- 8.1. Stable reference samples, i.e. those which are chemically and microbiologically stable over extended periods of time, are stored by the HY/VzBdV without prior agreement for three months at the longest. After the storage period the sample will be destroyed without further notice.

- 8.2. If the client intends to reclaim stable reference samples, if possible, this should be noted in writing when placing the order or, at the latest, a week after receipt of the test report/test certificate.
- 8.3. Waters and other samples that are unstable over extended periods of time are discarded after a correspondingly shorter period of time.
- 8.4. If inappropriately large samples, material amounts or particularly dangerous substances are delivered without prior agreement, the client can decide whether he wants to reclaim the samples / materials or whether the HY/VzBdV discards the samples / materials at the expense of the client.

## 9. Sample Delivery

- 9.1. The sample delivery is done at the risk of the client (customer). Sample containers provided by the client can be returned to the HY/VzBdV only with appropriate labeling, prior notice and an agreement to refund our costs. Otherwise, at the request of the customer and with an agreement to refund our costs, an equivalent sample container that may show usual signs of use will be provided. The HY/VzBdV cannot guarantee for the absence of contaminants in the returned sample container.
- 9.2. The HY/VzBdV cannot assume any responsibility for professional extraction and transportation regarding samples delivered to us.

## 10. Subcontracting and Outsourcing

- 10.1. In some cases (for example, in case of capacity constraints), to ensure an uninterrupted order fulfillment, we reserve the right to refer parts of the contracted services to competent subcontractors. If the client does not agree with this procedure, the HY/VzBdV must be notified before the commissioning of services.
- 10.2. If an order contains tests that do not fall into the range of services provided by the HY/VzBdV, at the request of the customer, these test are referred to competent laboratories (outsourcing).
- 10.3. The HY/VzBdV only subcontracts and outsources to cooperation laboratories, who offer a quality of analysis equivalent to the quality of the HY/VzBdV and offer services which are standards-compliant and conformable to law.

## 11. Confidentiality and Result Notification

- 11.1. All information given to the HY/VzBdV under non-disclosure agreement (e.g. formulations, results) is treated as strictly confidential. The information is only relayed to employees who are entrusted with the processing of the order.
- 11.2. Result notifications are made solely to the contracting authority and / or the recipient(s) that have been agreed upon in writing beforehand.
- 11.3. All samples that are provided by the client himself or were delivered, are indicated in the test report as "delivered samples".
- 11.4. Test reports, test certificates and expert opinions issued by the HY/VzBdV may only be published or reproduced in their complete and unaltered form, unless express written approval of the HY/VzBdV has been obtained.

*In case of products and materials testing, articles 11.5 to 11.8 apply additionally:*

- 11.5. To insure the validity of the test reports, test certificates and expert statements, constant quality of the composition and processing of the test material and product is required. The assessment is carried out under the condition that the base materials and the composition used to make the product are disclosed completely and the product contains no additional substances.
- 11.6. Our assessment is only valid for the examined specimen (test materials) taking into account current applicable legal regulations at the time of the order. It expires as soon as the formulation or manufacturing process deviates from the tested the specimen (test material) or legal regulations change.
- 11.7. After their expiration date, test reports, test certificates and expert opinions issued by the HY/VzBdV may no longer be used. If the requirements are met, an application for a one-time fee-based renewal is possible.
- 11.8. A re-issue of test reports by the testing laboratory in case of a change of trade name / brand name or in case of transfer to another company is no longer possible within the scope of our accreditation.

## 12. Termination

- 12.1. The HY/VzBdV and the client may terminate the contract for exceptional reasons only. If no notice period has been agreed upon, a notice period is not required. Exceptional reasons can be due to force majeure or an unavoidable event that makes the execution of the order completely or partially impossible. The notice must be in writing.
- 12.2. If the client terminates the contract or the contract is terminated for any reason that the HY/VzBdV is not responsible for, the HY/VzBdV receives the agreed upon remuneration after deducting of expenses saved for the assigned services.
- 12.3. *Special termination conditions for standing orders for individual water supply systems and drinking water installations:*  
The cancellation period for the client and the HY/VzBdV is a term of one month to the end of the month. A termination without notice is only possible for exceptional reasons (i.e. connection to the public supply network) and only until up to 3 days before the scheduled sampling. The notice must be in writing. If an already scheduled sampling is not practicable for reasons the client is responsible for, the appointment must be cancelled immediately, by no later than 3 days before the scheduled appointment. In case of a late cancellation, the client will be charged with the resulting costs.

## 13. Miscellaneous

If any clause of these terms and conditions are or become invalid or reviewable, the remaining clauses shall remain unaffected. If possible, the HY/VzBdV and the client commit to replacing the invalid clause with a valid clause which ensures the success agreed upon in the conclusion of the contract.

## 14. Place of Performance

Unless otherwise agreed, the place of performance of the service and payment is Gelsenkirchen, Germany.

## 15. Applicable Law

The contractual relationship existing between the client and the HY/VzBdV shall be governed by German law.

## 16. Extrajudicial Dispute Resolution for Transactions with Consumers

On the basis of a legal obligation, we are obliged to inform you regardless of our participation in an extrajudicial dispute resolution procedure that the European Commission has set up an online dispute resolution platform for the extrajudicial dispute resolution of consumer disputes. The platform can be found on <http://ec.europa.eu/consumers/odr/>.

Our e-mail address is [info@hyg.de](mailto:info@hyg.de).

## 17. Place of Jurisdiction

Place of jurisdiction is the registered office of the HY/VzBdV (Gelsenkirchen, Germany).