



## **A. General**

### **I. Contract conclusion**

1. Our services to parties who are not consumers within the meaning of § 13 BGB [German Civil Code] are provided exclusively on the basis of the following General Terms and Conditions of Contract.

Deviating, conflicting or supplementary terms and conditions of a customer will not become part of the contract unless we expressly agree to their validity in writing.

2. Unless otherwise agreed, our offers are subject to modification.

3. Research and development orders from a customer will only be deemed accepted when expressly declared by us, unless otherwise agreed with the customer. Likewise, a request for change sent by a customer after contract conclusion will require our confirmation. Silence on our part with respect to an order or a change request does not constitute acceptance or consent.

4. Our declarations in regard to the conclusion, amendment or termination of contracts must be made in writing to be valid; to this effect, an advanced electronic signature will be sufficient unless otherwise agreed with the customer. Documents created by us in an automated fashion within the scope of semi-automated electronic processing of order data are also valid without a signature.

5. Our testing, research and development, simulation, consulting, analysis, study and other scientific services (hereinafter referred to as "services") are carried out exclusively on the basis of the service contract law laid out in the German Civil Code (§§ 611 and the following BGB) – unless the following terms and conditions provide otherwise.

6. Documents and offers submitted by us do not become the customer's intellectual property. An offer recipient may only make use of such option in the event of contract conclusion, which will be subject to the additional terms and conditions set out in Part B Section IV.

## **II. Remuneration, prices and payment terms**

1. Remuneration will be calculated as a fixed price unless otherwise agreed in our offer. Sales tax will be charged accordingly.

2. We will inform the customer immediately if it becomes foreseeable that a contractually agreed service cannot be achieved with the agreed remuneration. In such case, we will propose an adjustment to the remuneration, which will become binding if the adjustment has become necessary for reasons which were neither foreseeable for us at the time of order placement nor for which we are responsible, and no other agreement can be reached with the customer.

3. We invoice services and reimbursable costs in accordance with the payment schedule agreed in the offer, or otherwise after services have been rendered. We are entitled to demand instalment payments in reasonable measure.

4. Payments are due in accordance with the payment schedule agreed in the offer. In the absence of a payment schedule, payment maturity will be determined by the due date indicated on the invoice.

5. Payments must be made cashless and without any deductions of discount such that we can dispose of the full amount on the due date. A customer may only offset claims if they are undisputed or have been judicially established; a customer will only hold retention rights based on the same contractual relationship.

6. Overdue payments will be subject to an interest rate of nine percentage points above the respective base interest rate.

7. If subsequently arising circumstances cause significant deterioration to the customer's financial position and therefore our payment claim becomes endangered, then we will have the right to demand immediate payment.

8. The legal provisions regarding late payment and assertion of the defence of uncertainty (§ 321 BGB) remain unaffected.



### **III. Title retention**

1. All research and development results – whether tangible or intangible – as well as the exploitation rights specified in Part B, Section IV. No. 2 and 3 will remain our property until full payment of the agreed remuneration. Our property and exploitation rights may not be pledged or transferred by way of security.

2. If SZMF's ownership of research and development results expires due to combination, mixing or processing, then ownership of the uniform item thus created will be transferred to SZMF prorated based on value (invoice value) until full payment of the agreed remuneration.

3. In the event a research and development result is resold, the customer will assign all rights from such resale to SZMF with in rem effect until full payment of the agreed remuneration.

### **B. Contract object and service execution**

#### **I. Service object**

1. The contract object consists of the services laid out in our offer. These services will be carried out by qualified employees in accordance with the principles of proper professional practice. We reserve the right to select the employees deployed for contract fulfilment. We have the right to use third parties in service performance.

2. The customer must support and facilitate our services to the extent agreed, and otherwise to the extent necessary and required. This particularly includes – but is not limited to – communication of all necessary information, data and general conditions as well as accurate and timely answering or decision-making regarding questions which arise for continued service execution.

Contact persons or points of contact named by the customer will be authorised to make the declarations or decisions from the customer needed for service performance.

#### **II. Service provisos; target dates; force majeure**

1. If our offer or the research and development order includes performance timelines and dates, then they will only be binding if SZMF has expressly

agreed to their binding nature. In such case, timelines will commence on the date of our order confirmation, yet not before full clarification regarding all order details or regarding the availability of all materials and/or information to be provided by the customer.

2. All performance timelines and dates are subject to the proviso of unforeseeable operational disruptions as well as timely, correct and sufficient delivery of the requisite materials, raw materials, supplies, energy and external services.

3. If the customer does not fulfil contractual obligations – including cooperation or ancillary obligations – in good time, then we will have the right to postpone our performance timelines and dates – without prejudice to our rights arising from customer default – in accordance with the requirements of our operating procedures; the same applies accordingly in the event of changes to tasks or the ordering of additional services.

4. In cases of force majeure, the contractual obligations of both parties will be suspended and the dates and timelines for the fulfilment of contractual obligations will be postponed accordingly; cases of force majeure will also include industrial disputes at our own and other companies, serious transport hindrances, serious breakdown of machinery, government measures, epidemics or pandemics and other circumstances for which neither party is responsible. The occurrence of force majeure must be notified to the other contract party without delay. No earlier than six weeks after a force majeure event, each contract party will have the right to terminate the contract to the exclusion of any obligation to provide corresponding compensation.

5. In the event of non-compliance with bindingly agreed performance dates or timelines, we will notify the customer of the reasons for the delay and make an appropriate adjustment in conjunction with the customer. In such case, the customer may only claim damages in lieu of performance if the customer has set a reasonable deadline for performance which – in this respect in deviation from §§ 281, 323 BGB – is combined with the declaration that the customer will refuse acceptance of performance after such deadline has passed; if the deadline passes without successful performance, then the right to fulfilment will be excluded. An additional grace period with threat of refusal will not be required in the event of a final refusal to perform by us.



6. In the event of delay, we will only be liable for damages and expenses evidenced by the customer and arising from or in connection with delays in owed performance if there has been culpable failure to meet bindingly agreed performance dates and timelines; in such case, our liability will be measured in accordance with the provisions laid out in Part C.

Without prejudice to the legal duty to mitigate damages, the customer will particularly be obligated to notify us in writing without delay of any impending damage caused by delay as is recognisable to the customer. We reserve the right to suggest to the customer alternative possibilities for obtaining the service.

7. The customer may withdraw from the contract without setting a performance deadline in the event overall performance has become definitely impossible for us. Additionally, the customer can withdraw from the contract if with respect to the order it becomes impossible to perform part of the service and the customer has a justified interest in refusing partial performance. If such is not the case, then the customer must pay the contract price attributable to the partial performance. The same applies in the event of incapacity on our part. Otherwise, Part C will apply accordingly.

### III. Service scope and performance

1. Unless otherwise agreed in the offer, we provide our services in accordance with the state of the art as generally recognised at the time of contract conclusion as well as established findings from research and science.

2. We do not guarantee actual achievement of a research and development goal.

3. If and to the extent we provide services for which recognised state of the art or established findings from research and science do not yet exist, then we will owe scientifically justifiable performance in line with recognised research and cognition methods combined with the diligence we generally deploy in our own affairs; such services generally require practical testing, verification and further development, which will not be part of our service obligations without an express agreement.

4. If the service owed consists of consulting, then - in line with the diligence we deploy in our own affairs - we will provide the customer with a

scientifically sound and justifiable assessment of the matter from our professional point of view on the basis of the generally recognised state of the art and, as agreed, will also provide proposals, recommendations and potential solutions or further research options; such consulting service will be limited to the areas of activity for which our company is set up.

5. Unless otherwise agreed, items produced within the scope of our contractual services (including but not limited to: prototypes, samples, etc.) are research, trial or test objects and are not ready for series production. The customer must take this into account in their use and handling.

### IV. Research and development results; exploitation rights

1. Our research and development results will be made available to the customer in accordance with the offer after order placement has been finalized.

2. Unless otherwise agreed in the offer, the customer will receive a non-exclusive and gratuitous exploitation right for the purpose on which the order is based for inventions created during order execution (including know-how, copyrighted works and databases) as well as for the respective industrial property rights filed by and granted to SZMF. The customer will reimburse SZMF a share to be agreed of the costs for the filing, maintenance and defence of industrial property rights and will pay a flat fee for employee inventor remuneration in the event of exploitation, with the corresponding amount being agreed for the individual case.

3. If already existing industrial property rights belonging to us or to other companies affiliated with us within the meaning of § 15 AktG [German Stock Corporation Act] are included in the work result or are created during development and are absolutely necessary for the customer's exploitation of the work result, then the customer will receive a simple, non-exclusive exploitation right against payment, limited to exploitation of the respective rights within the work result as a whole and exclusively within the scope of the agreed purpose, provided there are no other conflicting obligations on our part and no other agreement has been made in the offer.



## **V. Third-party rights**

1. Within the scope of due diligence customary in the industry, the customer must ensure that no third-party copyrights, patents or other industrial property rights (hereinafter "industrial property rights") are violated by the services being ordered.

2. If we are or become aware of conflicting industrial property rights in the course of executing the order, then we will inform the customer of the existence of such industrial property rights and obtain the customer's decision regarding their use. We have the right to suspend service performance until such decision has been reached.

The customer must indemnify us with regard to all third-party claims as well as all damages, expenses and other disadvantages incurred by us to such end as results from the circumstance that third-party industrial property rights are violated by service performance. The customer will not be liable if a violation of industrial property rights results from the way in which we choose to provide the service and we could have recognised in line with the due diligence customary in the industry that doing so would lead to violation of third-party industrial party rights.

## **C. General limitations on liability**

1. Our liability for damage or expense compensation for any legal reason will be excluded or limited in accordance with the provisions laid out in this Part C.

2. We will exclusively hold liability in the event of intent or gross negligence on the part of our legal representatives or vicarious agents or in the event of culpable breach of a material contractual obligation.

3. In the event of culpable breach of a material contractual obligation, our liability will be limited – except in cases of intent or gross negligence on the part of our legal representatives or vicarious agents – to the foreseeable damage typical for a contract.

4. Liability for loss of production and loss of profit is excluded in all cases.

5. Our liability for any legal reason will be limited to total order value, unless there is higher insurance coverage or there are higher compensation claims against third parties outside our group of

companies. If the total order value excluding legally applicable sales tax is lower than EUR 10,000, then the maximum amount of liability will be EUR 10,000 unless there is higher insurance coverage or there are higher compensation claims against third parties outside our group of companies.

6. The liability risk for any potential radiation damage will lie solely with the customer. The customer must indemnify us and hold us harmless with respect to all liabilities, costs, damages and expenses arising from or attributable to any legal claim based in whole or in part on the direct or indirect exploitation of our service in connection with high-energy ionizing radiation (such as radiation from radioactive substances or x-rays).

7. The liability exclusions and limitations laid out in these terms and conditions will not apply in the event of intent, personal injury, damage to privately used property, and in other cases involving mandatory liability under law.

## **D. Special provisions for research and development work under purchase agreements and contracts for work and services**

In the event of an express contractual obligation to manufacture or deliver an item as a result of the services being provided by us, the following provisions will apply with respect to defects:

1. Contractual quality and freedom from defects will be measured exclusively in accordance with the expressly contractually agreed specifications regarding development, testing or manufacture. Insignificant deviations within the scope of the tolerances customary in the industry or standards will not constitute a deficiency. Liability will only be assumed for a specific purpose, use or suitability as has been expressly agreed in writing; otherwise, the risk for suitability and use will be borne exclusively by the customer.

2. The contents of the contractual agreements and any expressly agreed purpose or use will not constitute a (quality and/or durability) guarantee; any assumption of a guarantee will require an express written agreement.

3. The customer must inspect performed services without delay. Defect rights will only be valid if defects are notified in writing without delay. Hidden defects must be reported immediately after being discovered.



After acceptance has been carried out as agreed, claims will be excluded for defects that could have been detected during acceptance.

4. In the event of complaints, the customer must provide us with an opportunity to perform a corresponding inspection without delay. In the event of unjustified complaints, we reserve the right to charge the customer for costs incurred to such end as well as for the inspection expenditure.

5. In the event of a defect, we will – at our discretion and accounting for the customer's interests – provide subsequent performance either by rectifying the defect or by providing the service again. We have the right to two attempts at subsequent performance and may refuse subsequent performance when doing so is only possible at disproportionate cost.

If subsequent performance is not successfully carried out by us within a reasonable period of time, then the customer may set a reasonable timeline for subsequent performance; if such timeline passes fruitlessly, then the customer may either reduce remuneration or price or may withdraw from the contract. Further claims, such as compensation for damage or wasted expenses, will only apply in accordance with Part C.

6. In the event of a justified third-party claim against the customer as a result of violation of third-party industrial property rights from the contractual use of the item, subsequent performance will – at our discretion – be carried out such that we obtain for the customer the authority to use the item in line with the contract or modify the work result such that no third-party industrial property rights are violated.

7. Claims regarding defective services can only be made within one year of service performance. Rectification or replacement will not cause this limitation period to start anew.

In the event of personal injury or damage to privately used property, of intent or of defects in a service intended for the erection of a building, the statutory limitation periods for such ends will apply in deviation from the above provisions.

8. The customer's recourse rights against us are limited to the legal scope of the third-party defect rights asserted against the customer and are contingent upon the customer having complied with the obligation to inspect and give notice of defects as is incumbent on the customer in the relationship

with us. The customer must – to the extent possible – defend against such claims.

9. Flat rates for complaints or damages and contract penalties will not be accepted.

## **E. Other provisions**

### **I. Sales tax**

We charge legally applicable sales tax on remuneration and/or prices.

### **II. Data processing**

1. Data accrued in connection with the contractual relationship and order processing will be electronically processed and stored.

2. We reserve the right to disclose data relating to contract and payment processing as well as other information from the contractual relationship as is suitable for assessing creditworthiness to insurance companies and institutions for securing supplier credit as well as for assessing creditworthiness via electronic means.

### **III. Confidentiality**

The parties must handle all information obtained directly or indirectly from the other party within the scope of the order as confidential and must not to make such information available to third parties. Third parties in this sense do not include employees of companies affiliated with us under § 15 AktG [German Stock Corporation Act].

These confidentiality obligations also extend to all of the parties' employees and agents. The parties must impose suitable confidentiality obligations on such persons.

These confidentiality obligations do not apply to information that is demonstrably generally known, becomes generally known through no fault of the receiving party, was or is lawfully obtained from a third party, already exists at the receiving party or must be disclosed due to mandatory regulations; the parties must immediately notify each other in advance in the event of disclosure due to



mandatory regulations unless prior notification is impossible or unreasonable.

#### **IV. Contract term and termination**

The contract will end upon performance of the agreed service or once the agreed period of time has been met. However, the contract can be terminated at an earlier time as per month-end with eight weeks of prior written notice if necessary due to customer operational reasons. In such case, we will have the right to receive the agreed remuneration less any expenses saved.

#### **V. Applicable law**

All legal relationships between the contract parties will be governed exclusively by the laws of the Federal Republic of Germany and the "United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980".

Application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Convention) will only occur with the proviso that claims against us for damage and expenditure compensation due to defective performance or due to other defects in performance will only be valid in the event of culpability on the part of our legal representatives or vicarious agents and only within the limits set out in Part C. The above limitation does not apply to personal injury, damage to privately used property or other cases of compulsory liability.

#### **VI. Place of performance and legal venue**

1. The place of performance for deliveries and payments for both contract parties is Salzgitter or Duisburg.

2. The exclusive legal venue will be – at our discretion – Hannover or Duisburg the customer's general legal venue.