

# Terms and conditions

## 1. Scope

These terms and conditions (hereinafter “T&Cs”) apply to all services provided by IBExU Institut für Sicherheitstechnik GmbH (hereinafter “IBExU”). Extended contractual conditions shall apply to testing / certification in accordance with Directive 2014/34/EU, as well as to IECEx systems.

Unless agreed otherwise, individual contracts with IBExU shall be concluded exclusively on the basis of the following conditions. By placing an order, the customer (hereinafter “Customer”) agrees to our T&Cs. Terms and conditions issued by the Customer that conflict or deviate from these T&Cs shall only be binding if IBExU has expressly agreed to this in writing.

## 2. Conclusion of the contract

A contract shall be deemed to be concluded when the Customer receives a written order confirmation from IBExU. This written order confirmation shall contain full details of the subject of the contract between the two parties. Verbal promises made by IBExU prior to the conclusion of this contract shall not be legally binding and verbal agreements between the parties shall be replaced by the written contract provided that neither party has expressly stated that these verbal agreements will remain binding.

Any amendments, collateral agreements and additions to the contract shall require IBExU’s written confirmation to be effective.

IBExU shall only be liable for the contractual service provided in accordance with the generally accepted industry standards and all relevant legal requirements. Our experts and specialists shall carry out their duties independently when performing testing and assessment tasks.

## 3. Fulfilment of the contract and the Customer’s obligation to cooperate

The Customer shall provide IBExU with all the relevant information necessary for it to fulfil the contract in full (e.g. technical documents, functional specifications, safety data sheets). IBExU shall be entitled to inspect all the documents necessary for fulfilling the contract and to archive them as needed for processing.

Insofar as the Customer is required to cooperate with IBExU to ensure fulfilment of the contract, the Customer shall do so at its own cost. If the Customer fails to cooperate, fails to cooperate in a timely manner or fails to cooperate properly, IBExU shall be entitled to invoice the Customer for any additional costs incurred as a result.

If IBExU has to work outside of its own business premises, the Customer shall be responsible for implementing any measures necessary to meet health and safety requirements.

IBExU shall not be held liable for the damage or destruction of the Customer’s property as a result of proper performance of its services.

The Customer shall transport its own property at its own risk and expense.

## 4. Service schedules and delivery times

All service schedules and delivery times shall be deemed approximate unless specifically agreed in writing. Service schedules shall begin from the moment that the Customer provides its full contractual cooperation. If the Customer requests retrospective changes or its cooperation is delayed, all deadlines and service schedules shall be renegotiated.

IBExU shall not be held liable in the event that it is not possible to fulfil the contract or that fulfilment of the contract is delayed if this is a result of force majeure or another event that was not foreseeable at the time the contract was concluded and that was beyond the reasonable control of IBExU (e.g. any disruption to business operations, strikes, lawful lockouts). IBExU shall be entitled to withdraw from the contract if such events make fulfilling the contract impossible or considerably more difficult and the hindrance is not temporary in nature. In the event that a hindrance is temporary in nature, service schedules shall be extended or delivery shall be postponed for the duration of the hindrance, plus an appropriate warm-up period. Insofar as the Customer cannot reasonably be expected to accept the service as a result of the delay, the Customer may withdraw from the contract by immediately notifying IBExU in writing.

In the event that it defaults on its contractual obligations or is unable to fulfil the contract, IBExU's liability shall be limited to compensation as described under point 8 of these T&Cs.

If the Customer is in default of acceptance or otherwise culpably breaches its obligation to cooperate, IBExU shall be entitled to assert a claim for damages, including for any additional costs incurred as a result. IBExU also reserves the right to assert further legal claims.

## 5. Acceptance of the service

Intellectual services shall be deemed to have been accepted insofar as the Customer has not expressly notified IBExU in writing of any defects within 14 days of the service being provided. In this event, IBExU shall review the service provided. If the Customer's complaint is proven to be unfounded, it shall bear any additional costs incurred due to this review.

## 6. Prices and payment

The prices stated by IBExU shall be binding, subject to the addition of statutory VAT if applicable. All invoices shall be payable within 30 days of the invoice date.

The Customer shall only be permitted to set-off payments with counterclaims or to withhold payment as a result of these claims if the counterclaims are undisputed or have been established in law.

IBExU reserves the right to request appropriate payments on account and/or advance payments and shall also be entitled to issue partial invoices.

IBExU shall retain all rights/copyrights for all of its services, including but not limited to expert opinions, testing and consulting services, until full payment has been received from the Customer.

## 7. Warranty

In the event that IBExU provides a defective service, it shall (at its own discretion) be obliged and entitled either to remedy such defects or provide an alternative service within a reasonable period of time. In the event of failure, impossibility, unacceptability, refusal or an unreasonable delay in remedying the defect or providing an alternative service, the Customer shall be entitled to withdraw from the contract or to reduce payment as appropriate. The right to withdraw from the contract is excluded if the defect is not significant.

If a defect is found for which IBExU is to blame, the Customer may assert a claim for damages under the conditions listed in point 8.

The limitation period for claims for defects of any kind shall be 12 months from the date the service is performed, or, if the service must be accepted, from the date of acceptance.

## 8. Liability of IBExU

Insofar as it is at fault, IBExU's liability for damages, regardless of the legal grounds, but in particular due to impossibility, delays, defective or incorrect performance, contractual infringement, breach of obligations during contract negotiations and unlawful acts, shall be limited to the scope of this point.

IBExU shall not be held liable in the event of simple negligence by one of its bodies, legal representatives, employees or other vicarious agents, insofar as there is no violation of its essential contractual obligations. The timely performance of services, the absence of defects, obligations regarding consulting services, protective duties and the duty of care, the obligation to protect the life, limb and health of the Customer's staff and the obligation to protect the Customer's property from significant damage shall be of the essence of the contract.

If IBExU is liable for damages in accordance with point 8 paragraph 2, its liability shall be limited to damage that IBExU foresaw as a consequence of breach of contract at the time the contract was concluded or that IBExU could have reasonably foreseen when applying due care and attention. Indirect and consequential losses shall only be eligible for compensation if these losses are typically to be expected.

The aforementioned exclusions and limitations of liability shall apply to the same extent to IBExU's bodies, legal representatives, employees and other vicarious agents.

The restrictions noted in this clause shall not apply to IBExU's liability arising from wilful misconduct, guaranteed performance characteristics or injury to life, limb or health.

## 9. Liability of the Customer

If IBExU's staff are injured or its equipment / devices are damaged or destroyed during its fulfilment of the contract, it shall be refutably presumed that the damage or destruction has arisen from the Customer's culpable infringement of its obligations.

## 10. Jurisdiction and applicable law

If the Customer is a registered trader, a legal entity under public law or a special fund under public law, or if it has no general place of jurisdiction in the Federal Republic of Germany, the local jurisdiction for any disputes arising from the contract between IBExU and the Customer shall be that of IBExU's head office. This shall not affect mandatory statutory provisions regarding exclusive jurisdictions.

The contractual agreement shall be governed exclusively by the laws of the Federal Republic of Germany. The UN Convention on the International Sale of Goods (CISG) of the 11th April 1980 shall not apply.

## 11. Final provisions

Should any provision of these T&Cs not be applicable, this shall not affect any of the remaining provisions.

## Note:

The Customer acknowledges that IBExU shall store data arising from the contractual agreement in accordance with Art. 28 of the German Data Protection Act for the purposes of data processing. It also acknowledges that IBExU reserves the right to transfer this data to third parties (e.g. insurance providers) insofar as this is necessary for fulfilment of the contract.