

## General Terms and Conditions for the Provision of Engineering Services of SAACKE GmbH, Bremen

### Preamble

These General Terms and Conditions of Offer (hereinafter referred to as "GTC") govern the terms under which SAACKE GmbH (hereinafter referred to as "SAACKE") provides engineering services to its clients. The aim is to ensure a transparent representation of the mutual rights and obligations within the scope of engineering projects. These GTC apply exclusively to business transactions with commercial clients.

### 1. General, scope of application

- 1.1 These GTC shall apply to the contractual relationship with customers who commission SAACKE with so-called engineering services. Engineering services are defined as preparation of technical studies on the solvability of technical problems or issues, the feasibility of corresponding solutions in connection with firing systems as well as recommendations regarding the use of specific components and equipment. They do not apply to deliveries and related services, for assembly, commissioning, conversions and services for which separate terms and conditions apply (see [www.SAACKE.com](http://www.SAACKE.com)). They only apply to business transactions, to legal entities under public law or special funds under public law and to the provision of services to scientific institutions
- 1.2 The GTC shall apply exclusively; conflicting or supplementary terms and conditions of purchase are hereby rejected. This shall also apply if SAACKE does not repeat the objection in individual cases despite the provision of services or provides services in the knowledge of conflicting terms and conditions of purchase.
- 1.3 These GTC shall also apply to future follow-up transactions without the need for a separate reference to this when the follow-up transaction is concluded.

### 2. Conclusion of contract, Subject matter of contract

- 2.1 SAACKE's offers are not legally binding unless they are expressly designated as a "binding offer". The contract shall come into effect with the order confirmation issued by SAACKE in response to the Customer's order or, in the case of a binding offer, with the Customer's order.
- 2.2 Verbal collateral agreements have not been made. Employees of SAACKE are not authorised to make ancillary agreements. Amendments or additions to the contract require the authorisation of the management in order to be effective.

### 3. Provision of services, performance time

- 3.1 SAACKE provides its engineering services to determine the technical feasibility of special issues and problems in combustion technology and in relation to application-related development services. The focus here is on endeavoring to gain knowledge and testing technical implementation options. The contractual relationships are of a service nature, the work is carried out at a scientific level, concrete results depend on the progress of the work, the existing and achievable state of knowledge and cannot generally be predicted with certainty when the contract is concluded. The results of the engineering services do not require acceptance; the handover of final reports or comparable milestones do not - unless otherwise agreed in individual cases - constitute a request for acceptance under the contract for work and services but serve to document the course of the engineering service and the result achieved.
- 3.2 Insofar as SAACKE provides other services without reference to research, these shall also be provided as services (e.g. application tests, product improvement) unless specific performance results have been explicitly agreed with the customer as contractually owed with the agreement of acceptance deadlines.
- 3.3 SAACKE shall be entitled to hand over the results of the engineering services and other work results to the Customer in electronic form, also by email, while maintaining any confidentiality that may be required. SAACKE shall only use encryption technology for this purpose at the Customer's request.
- 3.4 Insofar as SAACKE sends samples, specimens, prototypes or otherwise embodied results of the engineering services, this shall be ex works.
- 3.5 The authorisation to exploit work results as defined in more detail in Section 7 shall always be subject to the proper payment of the agreed remuneration.
- 3.6 If work is carried out jointly or in the presence of employees of the Customer on the business premises of SAACKE, the Customer shall comply with the standards for occupational safety at SAACKE. In this respect, the Customer shall submit to SAACKE's house rules.
- 3.7 Delivery periods stated by SAACKE (e.g. calendar week) are to be understood as internal planning at the time of the declaration. If the Customer wishes binding compliance with a delivery period, it must agree this when the contract is concluded. In this case, SAACKE shall confirm the binding delivery period in text form. Compliance with binding delivery periods shall be subject to SAACKE's own correct and punctual delivery and subject to organizational, technical and commercial obstacles for which SAACKE is not responsible (e.g. illness of key personnel, technical failure through no fault of its own, etc.). If delays are due to circumstances which were not foreseeable when the contract was concluded or which result from the nature of the order (e.g. the need for multiple trials for engineering services), the delivery periods stated shall be extended appropriately according to the circumstances.
- 3.8 SAACKE shall inform the Customer in advance if it becomes necessary to change the execution of the engineering services due to interim results that cannot be calculated in advance.

If the Customer does not immediately object to the changed procedure, it shall be assumed that the Customer agrees to the changed implementation method.

- 3.9 If it has been agreed that the customer is to provide application materials such as fuels, gases, oils, materials, devices or other bases for the provision of services, the proper provision of the agreed engineering services requires the delivery of suitable raw materials in sufficient quantities. The same applies to the provision by the customer of information necessary for the performance of the engineering services (e.g. technical data, documents, drawings, etc.) If the customer delays the provision or transmission of the technical information, the agreed project duration shall be extended appropriately and accordingly. Any risks for SAACKE's employees or the environment which are known or must be known to the Customer and which exist during the processing or utilization of the materials provided must be notified to SAACKE in text form prior to conclusion of the contract.

#### **4. Prices and terms of payment, deterioration of assets, offsetting, retention**

- 4.1 The agreed prices are quoted in euros - plus VAT where applicable - and plus any transport, insurance, packaging and other ancillary costs. They are due and payable 14 days after delivery of the final report (Clause 3.1.).
- 4.2 SAACKE generally works on the basis of a lump-sum agreement with a description of the measurements and work to be carried out. If invoicing on a time and material basis has been agreed, SAACKE shall record the engineering services and materials provided internally by its employees and collect this data as the basis for invoicing.
- 4.3 In the event of invoicing on a time and material basis, SAACKE shall be entitled to issue partial invoices. As a rule, this shall be done regularly by submitting a time sheet or other proof of expenditure or, if different invoicing has been agreed, in accordance with the progress of the work (e.g. in the case of flat-rate agreements).
- 4.4 The customer must check invoices from SAACKE immediately upon receipt. Successful payment shall be deemed to be actual acknowledgement of the expenses recorded. Invoices may be issued by SAACKE in paper or electronic form at its discretion.
- 4.5 Unless otherwise agreed in individual cases, invoices are due for payment within 14 days of receipt.
- 4.6 If this engineering service contract is based on a lump-sum price agreement and the Customer requests further measurements or work or other extensions to the scope of the project, SAACKE shall inform the Customer of the additional costs incurred. If the Customer agrees to these additional costs at least in text form, SAACKE shall be entitled to adjust the prices accordingly.
- 4.7 A significant deterioration in the Customer's financial situation shall entitle SAACKE to suspend further work for the time being or to make fulfilment dependent on advance

payment. Significant deterioration in assets shall be assumed in the event of a delay in payment of more than 45 days.

- 4.8 Offsetting or retention by the customer is only permissible within the same service relationship (project-related) and relates exclusively to undisputed or legally established counter-claims. Offsetting and retention on the basis of circumstances from other orders with the same customer (cross-project) is hereby rejected. Delivery orders to SAACKE or other contractual relationships not relating to engineering services shall also be deemed to be other orders.

## 5. Warranty for defects, liability

- 5.1 The results of the engineering services performed by SAACKE are regularly - in accordance with their nature as research and development services - not clearly or fully foreseeable in terms of content when the contract is concluded. SAACKE's responsibility in the performance of engineering services is therefore limited to proper compliance with methods and standards that correspond to the current state of science and technology. SAACKE shall not assume any responsibility beyond compliance with the aforementioned standards and methods unless a separate agreement has been reached with the Customer in this regard, stating specific sub-steps and objectives. In particular, SAACKE does not guarantee that the engineering result can be utilized industrially and commercially unless the usability has become an express part of the contract in text form.
- 5.2 Insofar as SAACKE hands over development samples or otherwise embodied results of the engineering services to the customer, SAACKE shall provide information about recognized potential dangers in the application or handling. However, SAACKE assumes no liability for technical faultlessness. The customer shall exercise particular care in the area of health and safety at work to an extent appropriate to the nature of the development sample. Development and substance samples as well as comparable work results are not intended for transfer to general business transactions.
- 5.3 If SAACKE has to provide the Customer with the results of the engineering services in the form of samples, specimens, substance samples or similar embodied objects, the objects received must be inspected for material defects immediately after receipt, insofar as these can exist at all in compliance with clause 5.2. SAACKE must be notified of obvious defects within 3 working days of the day of receipt. Hidden defects must be reported immediately after discovery with a description of the defect.
- 5.4 Insofar as software is supplied to the Customer, SAACKE shall not assume any guarantee that it will work together with the hardware and software components available to the Customer. An error in the software supplied by SAACKE shall only be deemed to exist if it is persistent and reproducible. In the case of software, SAACKE must always first be given the opportunity to rectify the defect. SAACKE may also rectify the error by providing instructions on how to avoid the error or by installing updates. The other defect rights suspended up to that point shall only be revived after two unsuccessful attempts to rectify the defect due to the same error.

- 5.5 Insofar as SAACKE provides the customer with equipment for carrying out tests, its responsibility shall be limited to the proper functioning of the test equipment as such. In this case, tests and examinations shall be carried out under the sole responsibility of the customer.
- 5.6 SAACKE's liability for damages, whether based on contractual or non-contractual legal grounds, shall be governed by the statutory provisions in the case of strict liability (e.g. product liability where applicable), as well as in the case of injury to life, limb or health, in the case of guarantees given and during default.
- 5.7 Within the scope of other fault-based liability outside of clause 5.6, SAACKE shall only be liable for intent and gross negligence. In the event of gross negligence, the amount of liability shall be limited to four times the original order value plus supplementary agreements, whereby the above values shall be determined on the basis of the respective project from which the damage arose.
- 5.8 In deviation from clause 5.7, SAACKE shall also be liable on legal grounds for simple negligence if a material contractual obligation is breached by SAACKE. In this case, the amount of this liability shall be limited to the foreseeable damage typical of the contract, whereby the foreseeability shall be based on the information received. The upper limit is the original order value plus supplementary agreements from the respective project from which the damage arose.
- 5.9 To the extent permitted by law and not caused by intent on the part of SAACKE or its vicarious agents, SAACKE shall not be liable for indirect and/or consequential damages, in particular due to loss of profit, wasted expenditure, business interruption or loss of production. It is irrelevant whether such damage was foreseeable or not.
- 5.10 The exclusion or limitation of liability shall also apply to SAACKE's employees.

## 6. Funded projects, joint projects

The contract with SAACKE is effective under civil law irrespective of whether or not public funding can be obtained by the customer for the project.

## 7. Industrial property rights, realization, exemption, insolvency

- 7.1 SAACKE shall remain the owner of all resulting rights to the work result, regardless of whether these are capable of being protected by industrial property rights or not, unless a deviating provision has been agreed in an individual contract. In any case, the utilization shall be dependent on the proper payment of the remuneration agreed with SAACKE.
- 7.2 If the Customer is granted the authorization to exploit and the authorisation to use or transfer rights to work results or inventions in individual contracts, this authorisation shall be limited in terms of its material scope to the subject/area of work of the engineering services or other services specifically described by SAACKE. If the scope of the transfer of rights

or the granting of rights of use are not explicitly contractually agreed between the parties, SAACKE shall always grant rights only to the smallest possible extent, i.e. in the event of the granting of a license, non-exclusive, limited to a reasonable period, not entitling to sub-licensing, non-transferable and locally limited to the area of use intended or foreseeable at the time of the conclusion of the contract. Generally usable work results or results achieved as a by-product shall remain with SAACKE. SAACKE may also use these for the provision of services to other customers.

- 7.3 SAACKE shall retain the copyrights together with the authorisation to name the services rendered as a reference service and to decide on the granting of rights of use in compliance with the contractual provisions and the provisions of these GTC.
- 7.4 Insofar as the development or modification of software is part of the order, the customer shall acquire a simple, non-exclusive and non-transferable license of use, unless otherwise agreed. Further development, decompilation or other processing shall require the consent of SAACKE.
- 7.5 SAACKE shall - subject to individual contractual agreements to the contrary - shall have no duty to examine the testing and research procedures specified by the customer with regard to research procedures with regard to possible infringements of industrial property rights when implementing these customer specifications as part of the provision of the service. If the provision of the engineering service infringes an industrial property right of a third party at the destination or place of use of the engineering result specified by the customer and SAACKE is held liable as a result, the customer shall indemnify SAACKE to the extent of the claim and reimburse the expenses and damages incurred in connection with this claim (e.g. personnel, costs of legal assistance, etc.).
- 7.6 The results of the solutions developed by SAACKE by means of engineering services shall not be checked before handover to the Customer for possible collision with industrial property rights of third parties in the context of the subsequent application of this solution by the Customer in practice, unless this has been agreed separately for a fee. The customer shall therefore be responsible for the use of the solutions received from SAACKE with regard to the infringement of third-party industrial property rights when utilised, applied or further developed for the purpose pursued by the customer and the territory envisaged by the customer. The indemnification provision of clause 7.5 shall apply accordingly.
- 7.7 SAACKE shall be entitled to make image and sound recordings in the course of organising events and to use them for the purposes of documentation and advertising without restriction in terms of time and space.

## 8. Confidentiality, contractual penalty

- 8.1 The Customer shall not disclose to third parties any know-how, trade or business secrets of SAACKE within the meaning of § 17 of the German Act Against Unfair Competition (UWG) or other confidential information provided by SAACKE within the scope of the contract and

project processing or received from SAACKE on the occasion of the contract and project processing or use such information in any other way outside the agreed use.

- 8.2 If the customer culpably breaches the obligation under 8.1, a contractual penalty to be measured by the value of the information disclosed or used shall be due for payment in the amount of at least EUR 5,000.00 up to EUR 100,000.00. SAACKE shall determine the amount of the contractual penalty in individual cases at its reasonable discretion. If the fairness of the exercise of discretion is in dispute, the competent court shall exercise the determination in the alternative. The assertion of claims for damages by offsetting the contractual penalty shall remain unaffected.

## 9. Publications

In the case of scientific publications or other publications on research results which were obtained on the basis of or with the assistance of engineering services from SAACKE, the Customer must expressly refer to the co-operation with SAACKE. SAACKE shall be entitled to present the results of the engineering services in scientific publications and publications with due regard to the Customer's confidentiality interests.

## 10. Contract term, premature termination

- 10.1 The contract for engineering services may be terminated by SAACKE before expiry of the agreed contract term with a notice period of 4 weeks if it becomes apparent during the contract term that the desired research or development objective cannot be achieved either with the initially agreed methods or with such alternative methods that correspond to the agreed cost framework or can be presented within the scope of the price adjustment option. The same applies to if the research or development objective cannot be achieved in full or in part within the term of the contract for technical reasons and no agreement on an extension is reached. In this case, SAACKE may liquidate the proportionate costs incurred.
- 10.2 It is expressly permitted that the cancellation may also relate only to parts of the overall project, provided that the remaining partial services are of interest to the customer.

## 11. Miscellaneous, choice of law, place of jurisdiction

- 11.1 Customer data and the data of participants in events shall be stored and processed electronically insofar as this is necessary for the proper processing of the business relationship. We also use the stored information for advertising purposes for subsequent business transactions, unless the customer or participant objects to this.
- 11.2 The uniform place of fulfilment for the mutual contractual obligations is the registered office of SAACKE/Bremen.

- 11.3 The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods. The exclusive place of jurisdiction is Bremen.
- 11.4 The transfer of rights and obligations arising from this contract shall require the consent of SAACKE in order to be effective.
- 11.5 Should one or more provisions be invalid, this shall not affect the validity of the other provisions and the contract as a whole. If the ineffective provision can be separated from another effective part of this provision in the text, so that the effective part remains understandable by itself with the deletion of the ineffective part, this effective part shall be maintained, unless this leads to a content that contradicts the intended purpose due to the ineffectiveness of the other part.

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