

General Terms and Conditions for the Acceptance of Orders, in particular Research and Development Orders by the DBFZ

Deutsches Biomasseforschungszentrum gemeinnützige GmbH

The DBFZ is a non-profit limited company (GmbH) belonging to the Federal Government, and as such its purpose is to do work for direct non-profit purposes. Among other things, it accepts orders to do basic research work on behalf of others. The following terms and conditions apply to these orders.

1 Scope

1.1 The following terms and conditions apply solely to all orders, especially research and development orders, issued to the DBFZ. Other terms and conditions of the Client are not part of the contract, even if the DBFZ does not explicitly contradict them.

1.2 Unless stated otherwise in the following, these orders are subject to the provisions of the Service Agreement Law (§§ 611 ff. BGB - German Civil Code).

2 Subject of Contract, Completion Period

2.1 The subject of the Order is the work described in the DBFZ's Fee Proposal.

2.2 If the Order contains a completion period or deadlines, these are only binding if the DBFZ has explicitly assured their binding nature in writing in advance.

2.3 If the DBFZ realises that the binding completion period or deadline cannot be met, it will notify the Client of the reasons for the delay and arrange a reasonable adjustment.

3 Remuneration

3.1 The remuneration will be charged as a fixed price. Notwithstanding this, the Parties to the Contract can agree to remuneration at cost – if applicable with an upper costs limit. VAT will be added to the respective remuneration.

3.2 The DBFZ will notify the Client immediately if it is foreseeable that the sought after result cannot be achieved with the agreed remuneration. At the same time, the DBFZ will propose an adjustment to the remuneration to the Client. If this becomes necessary for reasons which

were unforeseeable for the DBFZ at the time the Order was placed and for which the DBFZ is not responsible and the DBFZ is unable to reach another agreement with the Client, the proposed adjustment becomes binding.

4 Payments

Payments are due in accordance with the agreed payments schedule. If there is no payments schedule, the due date for payments is the due date named in the invoice. Payments are to be made without deduction to the given DBFZ account by quoting the invoice number.

5 Offset/Non-Assignment and the Right of Retention

5.1 Offsetting against the DBFZ's accounts receivable is only permitted if the counter claim is undisputed or finally decided by a court of law.

5.2 The Client's claim against the DBFZ cannot be assigned to third parties.

5.3 The Client can only exercise a right of retention if their counter claim is based on the same contractual relationship.

6 Result, Rights of Use

6.1 The result will be made available to the Client following completion of the Order in accordance with the Fee Proposal.

6.2 The Client receives a non-exclusive right of use, free of charge, to the inventions resulting during the completion of their Order and to the industrial property rights registered by and granted to the DBFZ for such investments, copyright-protected works, databases and the resulting know-how, for the intended use on which their Order is based. The granting of exclusive rights of use or the obligation to transfer the invention to the Client requires a separate agreement. In this case, the DBFZ retains a non-exclusive, free of charge right of use, without time or geographical limit, to use the above for not-for-profit research, teaching and development purposes.

6.3 Inventions which are achieved jointly by the Parties to the Contract (co-inventions) during the completion of the Order can be used and licensed by each Party to the Contract, without any financial compensation to the other. The Parties to the Contract each contribute a share of the costs, to be agreed, for registration, maintenance and defence of the industrial property rights concerned. In the case of copy-right protected works, which are jointly created by the Parties to the Contract during the completion of the Order (co-copyrights), Clause 6.3 Section 1 shall apply accordingly.

6.4 If existing industrial property rights of the DBFZ are used to complete the Order, which are necessary for use of the results by the Client, the Client shall receive a non-exclusive right to use these for a charge, to be agreed separately, provided other obligations of the DBFZ prevent this.

7 Third Party Industrial Property Rights

7.1 The DBFZ will notify the Client immediately of any third party industrial property rights it becomes aware of during completion of the order, which could contradict the use agreed in accordance with Clause 6. The Parties to the Contract will decide by mutual agreement, how these industrial property rights are to be taken into account in further completion of the Order.

7.2 In the event of breach of third party intellectual property rights, the DBFZ is liable, if it has breached its duty to notify, according to Clause 8.2 and 9.6. Otherwise the DBFZ's liability is excluded in case of contradictory third party intellectual property rights. The DBFZ is solely liable according to Clause 9 in the case of work under a purchase agreement or contract for work and services.

8 Liability

8.1 The DBFZ is responsible for taking due scientific care and compliance with the recognised rules of sound engineering practice, but not for actually achieving the research and development goal.

8.2 The liability of the DBFZ, its legal representatives and vicarious agents for breach of duty and tort is limited to deliberate intent and gross negligence.

8.3 The limitation of liability does not apply to fatal or physical injuries or damage to health.

8.4 The liability is limited to foreseeable, direct losses typical for the type of contract and is limited to the maximum sum equal to the agreed remuneration for the Order. Liability for consequential losses is excluded.

8.5 If the DBFZ fails to provide the performance it owes, or not by the due date or as due, the Client can only claim compensation instead of performance if they have given the DBFZ a reasonable period to complete the

performance, in writing, stating that they refuse acceptance of performance after the named deadline, and the DBFZ still fails to deliver the performance due.

9 Special Provisions for Purchase Agreement and Work & Services Contract Work

9.1 If, on the basis of an explicit pledge, the DBFZ is due to produce and deliver a state of the art object as the result, in the event of defects, the relevant provisions of the BGB regarding purchase agreement or Work & Service Contracts shall only apply according to the following paragraphs.

9.2 If the result achieved by the DBFZ proves to be defective, the DBFZ shall first be given the opportunity to remove the defect – several times, depending on the type of result, defect and other circumstances – by way of subsequent performance, at the DBFZ's discretion by means of rework or substitute delivery. In the event of legal defect due to the breach of third party industrial property rights, the subsequent performance shall be made such that the DBFZ acquires permission for contractual use for the Client, or modifies the result so that the relevant third party industrial property rights are not breached.

9.3 If the DBFZ refuses subsequent performance or it fails or it is unreasonable to expect the Client to accept it, the Client can choose either to reduce the remuneration due or, in case of material defect, to withdraw from the Contract. The right to withdraw expires if the Client does not declare the withdrawal, at the latest, 14 days after receiving the notification of rejection or failure of the subsequent performance or at the latest, 14 days after the time at which it becomes apparent to the Client that subsequent performance would be unreasonable.

9.4 The Client shall examine the result delivered by the DBFZ immediately and shall immediately notify the DBFZ of any defects. The DBFZ only provides guarantee for detectable defects if it is notified of them within a period of 14 days of delivery.

9.5 The liability provisions in Clause 8.2, 8.3 and 8.4f apply to the Client's right to claim for compensation in case of defects.

9.6 In the event of legal defect due to the breach of third party industrial property rights, the DBFZ is only liable if these rights exist in the Federal Republic of Germany, the Client uses the result in accordance with the Contract and insofar as the third party justifiably makes claims against the Client and the Client has immediately notified the DBFZ in writing of the claims made by the third party.

9.7 Claims due to defects expire in accordance with Clause 10.

10 Limitation

10.1 The Client's right to claim due to breach of duty and tort expire within 12 months. This does not apply if the law specifies longer periods in §§ 438 Para. 1 No. 2, 479 Para. 1 (right of re-course) and § 634 a Para. 1 No. 2 1 alternatives (construction defects) BGB, or the DBFZ is liable due to deliberate intent or gross negligence.

10.2 If acceptance of the results is planned, the limitation period for claims due to defects in accordance with Clause 9.1 begins with the acceptance, otherwise with the handover.

10.3 Negotiations between the Parties to the Contract regarding claims or the circumstances on which the claim is based, suspend the limitation period. The suspensive effect ends if one Party to the Contract fails to meet the other Party to the Contract's wish for the continuation of negotiations within 4 weeks.

11 Reservation of Ownership/Rights of Use

11.1 The Client does not receive the right of ownership and use of the results until they have fully paid the agreed remuneration. Property of the DBFZ and rights of use may not be pledged nor transferred by way of collateral.

11.2 If the DBFZ's ownership of the result expires due to combination, mixture or processing, it is herewith agreed that ownership of the uniform object resulting in this case is transferred to the DBFZ until it receives full pro rata payment of the agreed remuneration (invoice value).

12 Confidentiality

12.1 The Parties to the Contract will not disclose to third parties mutually notified technical or business information declared confidential for the duration of the Contract and for a period of five years following completion of the Order. This does not apply to information which was known to the other Party to the Contract or the public before notification or was generally accessible or corresponds to information which was disclosed to or made accessible to the other Party to the Contract by an authorised third party or was independently developed by an employee of the other Party to the Contract, who had no knowledge of the notified information.

12.2 Third parties in the meaning of this regulation are not subcontractors of the DBFZ, who the DBFZ entrusts with part-performance within the scope of the Order and who have been committed to maintain secrecy.

13 Publication, Photo, Advertising

13.1 Following prior consultation with the DBFZ, the Client is entitled to publish the results with the name of the originator. The arrangement must be made with consideration of the fact that, e.g. dissertations for degree work or applications for industrial property rights must not be negatively affected by such publication. The Client may only use the name of the DBFZ for advertising purposes with its explicit written consent.

13.2 Scientific DBFZ publications (text) which concern the intended purpose will be agreed with the Client in good time, provided the Client has received exclusive rights in accordance with Clause 6.2.

13.3 Concerning technical devices, setups, superstructures, apparatuses (equipment), superstructure arrangements and the like which were provided by the client for the execution of the order, the DBFZ has the exclusive right of use -unlimited in time and space- production, duplication, distribution, exhibition and public reproduction of photographs in accordance with § 15 UrhG (Urheberrechtsgesetz)

14 Termination

14.1 Each Party to the Contract is entitled to cancel the Contract for reasons of good cause.

14.2 Following effective termination, the DBFZ will hand over to the Client the results achieved up to that point within four weeks. The Client is obliged to reimburse the DBFZ for the costs incurred up until then. Personnel costs will be reimbursed on a time basis. If the termination is due to a reason for which one of the Parties to the Contract is to blame, claims for compensation remain unaffected.

15 Miscellaneous

15.1 The DBFZ records and processes all data which are necessary for carrying out the research contract.

15.2 Subsidiary agreements, amendments and supplements must be made in writing. § 126 para. 3 BGB (Bürgerliches Gesetzbuch) is excluded.

15.3 Place of performance for payments by the client shall be Leipzig, Germany.

15.4 The laws of the Federal Republic of Germany apply, with exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

15.5 Should individual or several provisions be or become wholly or partly invalid, the validity of the remaining provisions will not be affected. The same applies in case of a loophole in the provisions.

15.6 The place of jurisdiction is Leipzig.