

**General Terms and Conditions  
for Research and Development and Testing Work contracted to  
Institut fuer Solarenergieforschung GmbH Hameln/Emmerthal (ISFH)**

The Institut fuer Solarenergieforschung GmbH Hameln/Emmerthal (ISFH) is an exclusively non-profit-making organisation dedicated to the public good, conducting technologically innovative contractual research and testing work in the field of applied solar energy research. The following General Terms and Conditions reflect the particularities of contractual research and testing carried out by ISFH.

1. Validity, conclusion of a contract
  - 1.1 The following General Terms and Conditions shall apply to all research and development and testing assignments placed with ISFH. Any divergent, contrary or additional terms requested by the client are hereby objected to. They shall apply exceptionally in individual cases upon ISFH's written consent. Where the following General Terms and Conditions do not provide any other regulation, the provisions of service contract law (Arts 611 et seq. German Civil Code) shall apply to all research and development and testing assignments placed with ISFH.
  - 1.2 A contract is concluded upon written confirmation of the assignment by ISFH or upon commencement of the commissioned research and development or testing work, respectively, by ISFH.
  - 1.3 Any obvious mistakes included in ISFH's tender or confirmation, spelling or mathematical errors, shall not entitle or oblige the client or ISFH. A contract shall be deemed to be concluded as if its contents were without the error or mistake.
2. Object of a contract, period of performance
  - 2.1 The object of a contract shall comprise the work as defined in the tender of ISFH. In the case of testing assignments, ISFH shall carry out the testing work in compliance with recognised national and international regulations, in particular the testing of efficiency and reliability in compliance with DIN-, EN-, ISO- or other international standards or according to specifically agreed testing requirements stipulated by the client or according to agreed testing procedures proposed by ISFH.
  - 2.2 Should ISFH recognize that a period of performance or a deadline which has been agreed on as binding cannot be met, it shall notify the client of the reasons for the delay and shall agree on an appropriate adjustment with the client.
  - 2.3 The cancellation or postponement of an agreed test date by the client must be notified in writing to ISFH at the latest five working days prior to the agreed date. If the cancellation or the postponement is notified later ISFH shall be entitled to invoice the resulting loss to the client up to 50 % of the expected test fee.
3. Fees
  - 3.1 The fee excludes VAT which – if applicable - shall be added in accordance with the currently valid rate. Travelling costs shall be invoiced separately according to the expenses incurred.
  - 3.2 ISFH shall immediately notify the client if it foresees that the intended research and development result cannot be achieved at the agreed fee. ISFH shall simultaneously propose an appropriate increase of the fee. Should an increase of the fee be necessary for reasons which were neither foreseeable by ISFH when the contract was concluded nor within the responsibility of ISFH and if no other agreement is reached with the client, then the increase of fee proposed by ISFH shall be binding.
4. Payments
  - 4.1 Payments shall be due in accordance with the agreed payment schedule. In the absence of a payment schedule, the due date shall be the date stated in the invoice or, in the absence of a due date, payments have to be made within three working days after the date of the invoice. Payments shall be made without deduction indicating the invoice number to the account designated by ISFH.
  - 4.2 ISFH reserves the right to reject cheques and bills of exchange. Acceptance thereof is always for the purposes of payment. Any discount and bill of exchange fees shall be borne by the client and shall be due immediately.
  - 4.3 In derivation from Arts 366, 376 German Civil Code, ISFH shall be entitled to determine which debts shall be settled by payments of the client.
  - 4.4 In the event of an invoiced amount not

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being paid within 30 days after the due date, ISFH shall be entitled to demand interest for arrears at 5 % above the currently valid base interest rate of the European Central Bank. ISFH reserves the right to claim further compensation for losses caused by the delay.

4.5 An offset calculation against claims of ISFH shall only be permissible if the counterclaim is uncontested or if it is the subject of a final legal decision. The client may only exercise a right of retention if the counterclaim is based on the same contractual relationship.

5. Contractual results, test documentation, user rights

5.1 The research and development results shall be made available to the client after termination of the contract in the form as described in the tender. Test documents shall be issued depending on the kind of testing and its results in accordance with the tender of ISFH.

5.2 The client shall be granted a non-exclusive, royalty-free right of use to inventions made during the performance of the research and development contract as well as to industrial property rights filed by and granted to ISFH for these inventions for the use set out in the commission. The client shall reimburse ISFH for part of the costs of registration, maintenance and defence of the industrial property rights to be agreed upon and shall pay, in the case of the use of inventions, a comprehensive employee inventor's fee, the amount of which shall be agreed in each individual case.

5.3 Upon request and in lieu of rights in accordance with Section 5.2, the client shall be granted an exclusive right of use on a royalty basis to inventions made during the performance of the research and development contract as well as to industrial property rights filed by and granted to ISFH for the purposes set out in the commission on which the contract is based. The request shall be made in writing to ISFH, at the latest three months after the client's notification of the invention. ISFH shall retain a non-exclusive, royalty-free right of use to the results which are the subject of exclusive rights of use for the purposes of research and development.

5.4 The client shall be granted a non-exclusive, royalty-free right of use to copyright-protected work, databases and know-how

generated during the performance of the research and development contract for the purposes set out in the commission on which the contract is based. The granting of an exclusive right of use for the purposes set out in the commission on which the contract is based shall require a separate agreement.

5.5 The client shall be granted an exclusive right to use test results, while ISFH shall remain entitled to use the test results for its own research and development purposes, including the (further) development of test stands or processes as well as of standardization work.

5.6 Inventions jointly made by ISFH and the client during the performance of the research and development contract (joint inventions) may be used and licensed by both without financial compensation. ISFH and the client shall each bear a share of the costs to be agreed upon for registration, maintenance and defence of the industrial property rights concerned. In the case of copyright protected works jointly created by the contracting parties during the performance of the contract (joint copyrights), Section 5.5, sentence 1 shall apply correspondingly.

5.7 If, during the performance of the research and development contract, prior existing intellectual property rights of ISFH are used which are required for the client's commercialisation of the research and development results, then the client shall be granted a non-exclusive right to use on a royalty basis to be agreed upon separately, unless other conflicting obligations of ISFH preclude this.

6. Third-party intellectual property rights

6.1 ISFH shall immediately notify the client of any third-party intellectual property rights of which it becomes aware during the performance of the research and development contract which could preclude the client's use of the results as agreed under Section 5. The contracting parties shall decide in joint consultation how such intellectual property rights shall be taken into account in the further implementation of the contract.

6.2 In the event of the infringement of third-party intellectual property rights, ISFH shall only be liable if it has breached its obligation to notify the client in

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accordance with Section 6.1 and to the extent in accordance with Sections 7.2 and 8.6. The client shall have no further claims against ISFH in the event of infringement of third-party intellectual property rights during research and development work based on service contract law. As to research and development work based on a contract of sale (Kaufvertrag) or a contract of work and services (Werkvertrag), ISFH shall only be liable in accordance with Section 8.

**7. Liability**

7.1 ISFH shall carry out the contracted research and development work with scientific care and in compliance with generally accepted scientific standards but shall not be liable for actually achieving the research and development goal. ISFH shall perform testing work with scientific care and in compliance with the relevant principles of the respective testing program as well as all relevant, generally accepted technical principles and rules.

7.2 The liability of ISFH, its legal representatives and agents resulting from breach of obligations and tort shall be limited to intent and gross negligence. Only in the event of breach of essential contractual obligations (cardinal obligations) shall ISFH, its legal representatives and agents also be liable for minor negligence. In any case, liability shall be limited to foreseeable, contractually typical impairment.

7.3 Should ISFH neither fulfil its performance obligations nor do so at the due time nor in the agreed manner, then the client may only demand compensation in lieu of performance if the client has unsuccessfully set the ISFH an appropriate deadline for the performance including the statement that it would otherwise reject acceptance of the performance after the passing of that deadline.

7.4 ISFH shall be entitled to remedy incorrect testing work. In the event that repeated remedial action is to no avail, the client shall be entitled to choose either to demand reduction of the testing fee in consideration of the incorrect testing work or to demand rescission of the contract. Any further liability of ISFH in this respect shall be excluded. The client shall be obliged to claim remedial action for incorrect work in writing without undue delay, at the latest

three months after communication of the test results.

7.5 Any damage to persons or additional equipment used during a test which results from a breakdown of the equipment tested or from conditions imposed by the client, can be charged to the client if the client has not notified ISFH of the danger in writing when concluding the contract. The client shall be liable for any damage of the equipment tested which results from a breakdown of the equipment tested.

8. Special conditions for research and development work based on sales or servicing contracts

8.1 Where ISFH on the basis of an explicit commitment is obliged to produce and supply something corresponding to the accepted state-of-the-art as the result of research and development, in the event of defects, the provisions for sales contracts (Kaufrecht) and contracts for work and services (Werkvertragsrecht) shall apply subject to the variations detailed in the following paragraphs.

8.2 Should the research and development results prove to be defective, then ISFH shall first be given the opportunity to seek to rectify the problem, if necessary on repeated occasions – depending on the nature of the research and development results, the defect and other circumstances – at its own choice either by means of remedying the defect or by substitute delivery. In the event of a legal defect due to the infringement of third party intellectual property rights, supplementary work will be carried out by ISFH either obtaining a licence for contractual use for the client or modifying the research and development results in a way that the third-party intellectual property rights concerned are no longer infringed.

8.3 Should ISFH refuse supplementary work or the attempted rectification is unsuccessful or the client cannot reasonably be expected to accept it, then the client may either demand reduction of the fee owed (reduction) or, in the event of a serious defect, terminate the contract. The right to termination lapses if the client does not declare the termination of the contract within 14 days after receiving notification of refusal or failure of the attempted rectification or at the latest 14 days after the date at which the client was able to

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recognize that acceptance of the rectification work would be unreasonable.

- 8.4 The client shall immediately examine the research and development results supplied by ISFH and shall report any defects without undue delay. ISFH is only liable for perceptible defects if it has been notified thereof within a period of 14 days.
- 8.5 The liability provisions in Sections 7.2 and 7.3 shall apply to compensation claims by the client for defects.
- 8.6 In the event of a legal defect due to infringement of third-party intellectual property rights, ISFH shall only be liable in accordance with Section 8 for such rights which exist in the Federal Republic of Germany and if the client uses the research and development results in a manner consistent with the contract, and insofar as the third party has made a legitimate claim against the client and provided that the client has immediately notified ISFH in writing of the claims asserted by such a third party.
9. Statutes of limitation
- 9.1 The claims of the client for breach of duty and tort shall be statute-barred within 12 months. This shall not apply where legislation prescribes longer periods of time in Arts 438, para 1, no 2, 479, para 1 (regress claim) and 634a, para 1, no 2, alt 1 (construction defects) German Civil Code or ISFH is liable due to intent or gross negligence.
- 9.2 Should inspection of the research and development results be stipulated, the statute of limitations on claims due to defects according to Section 9.1 shall commence upon inspection, otherwise upon delivery.
- 9.3 Negotiations between the contracting parties about claims or circumstances giving rise to claims shall suspend the statutes of limitation. The suspensive effect shall end if one of the contracting parties does not comply within 4 weeks with the request of the other contracting party to continue negotiations.
10. Retention of title
- 10.1 The client shall only obtain ownership to the research and development result and be granted the user rights as described in

Sections 5.2 to 5.6 after full payment of the agreed fee. Ownership and rights of use held by ISFH may neither be mortgaged nor transferred as security.

- 10.2 In the event that the ownership of ISFH to the research and development result lapses through combination, commingling, or processing, it is already hereby agreed that the ownership to the combined object created in such an event shall, until full payment of the agreed fee, be proportionally assigned (invoiced value) to ISFH.
- 10.3 In the event of onward sale of the research and development results, the client shall cede all rights in rem to onward sale to ISFH until full payment of the agreed fee.
11. Confidentiality
- 11.1 The contracting parties shall, for the duration of the contract and for a period of five years after its termination, not make accessible to third parties information of a technical or commercial nature disclosed to each other and declared to be confidential. This shall not apply to information known to the other contracting party or generally accessible prior to its disclosure or to information which becomes known or generally accessible after disclosure without any involvement or fault on the part of the other contracting party or corresponds to information disclosed or made accessible to the other contracting party by an entitled third party or independently developed by an employee of the other contracting party not in possession of the disclosed information.
- 11.2 Third parties within the meaning of this provision shall not include subcontractors of ISFH if these have been entrusted with parts of the work by ISFH comprised in the contract and if they have been placed under a confidentiality obligation.
12. Publication, advertising
- 12.1 The client shall be entitled to publish the research and development result including identification of the author upon prior consultation with ISFH. Such consultation shall take into account that (intended) applications for intellectual property rights or confidentiality requirements of ISFH will not be impaired. For the purposes of advertising, the client may only use the

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name of ISFH upon its prior express consent.

- 12.2 The client shall be entitled to publish test certificates. The client may publish test reports or test protocols literally as complete reports or by releasing the summary written by ISFH. The client shall be entitled to publish the essential elements of the test results for the purposes of advertising, in particular the collector properties or the annual collector yields as ascertained by ISFH.

Publication in other forms requires the prior written consent of ISFH.

- 12.3 Where the client has obtained exclusive rights in accordance with Section 5.3, publication of the research and development results by ISFH concerning the purposes of commission or publication of the test results by ISFH shall only be undertaken after due consultation with the client. ISFH is entitled to publish basic scientific findings without consultation with the client.

13. Termination

- 13.1 Should no essential progress in work have been achieved within six months of commencement of the research and development work, then each contracting party shall be entitled to terminate the research and development contract with one month notice to the end of a calendar month. There shall be no other legal right of termination.

- 13.2 Each contracting party shall be entitled to terminate the research and development or testing contract without prior notice for good cause. For ISFH, good causes can be liquidity problems or delays in payment by the client or the client's receipt of a protest of a bill, or distrains on the client or a serious deterioration of the client's financial circumstances.

- 13.3 Upon termination ISFH shall submit to the client the research and development results or test results thus far achieved within four weeks. The client shall be obliged to compensate ISFH for costs incurred up to this date. Personnel costs shall be reimbursed according to the time invested. In the event of the termination being due to the fault of one of the contracting parties, this shall not affect claims for damages.

14. Miscellaneous

- 14.1 Where these General Terms and Conditions provide the exemption or limitation of ISFH's liability or that of its representatives or agents, this does not apply to liability for loss of life, injury or damage to health. Ancillary understandings, modifications or amendments to these General Terms and Conditions must be made in writing.

- 14.2 Place of performance by ISFH shall be Hameln.

- 14.3 The laws of the Federal Republic of Germany shall apply except for the United Nations Convention on the International Sale of Goods (CISG). Hameln shall have exclusive jurisdiction.

- 14.4 In case of doubt, the German version of these General Terms and Conditions shall take precedence over the English version.

- 14.5 Should one or more provisions of these General Terms and Conditions be or become completely or partially void, then the validity of the remaining provisions shall not be affected. The same applies in the case of loopholes. In lieu of the void provision, a valid provision shall be deemed to be agreed which comes closest to the financial significance of the void provision.