



Institut Bauen  
und Umwelt e.V.

**General Terms and Conditions**

Version 03/2015

## **1. Area of applicability**

1.1 The following terms and conditions apply to all services contracted with the Institut Bauen und Umwelt e.V. (IBU), including but not limited to verification services and to all supplementary services and other supplementary duties related to the execution of contracts.

1.2 Any general terms and conditions of the client, including any purchasing conditions, are not applicable and are hereby excluded. Contractual conditions of the client are not components of this contract, including those which the IBU does not expressly contradict.

## **2. Mandating methods**

2.1 Verification contracts may be awarded using the IBU online tool (<https://epd-online.com>); all other contracts require a letter of offer signed by IBU or a separate contract signed by both parties to the contract or by IBU executing the work requested by the client.

2.2 By mandating IBU, the client declares that it agrees with these general terms and conditions, the IBU programme regulations and the verification rules and recognises these documents as binding.

## **3. Scope of service and execution of work**

3.1 The scope of service is defined in detail in the IBU verification rules and programme regulations (the applicable versions of the PCR Part A and B and the General Principles). The contracts will be executed in accordance with the conditions listed therein. Deviations from this principle are not valid unless they have been expressly agreed in writing between the client and IBU.

3.2 IBU will execute its work according to professional standards and undertakes to take the necessary caution and to follow the generally recognised business practices and technical knowledge and to comply with statutory regulations.

3.3 IBU has the right to transfer performance to subcontractors and to have them execute the services entailed in the contract with the client. IBU selects subcontractors in accordance with the principle of impartiality.

3.4 Verification of an EPD entails reviewing the completeness, plausibility, consistency and transparency of calculations and information in the background report and the EPD in reference to the specifications of the PCR guidelines. All data and information on the product provided by the client will be compared to the product category rules authorised by IBU. IBU makes no warranty for the correctness or accuracy of the data underlying this review.

## **4. Duty of the client to cooperate**

4.1 The client warrants that all required cooperative actions on its end will be taken by itself, its vicarious agents or third parties in due time and without charge to IBU.

4.2 The client bears any and all additional costs arising from work needing to be repeated or delayed due to the late, incorrect or incomplete provision of information or the improper performance of its duties to cooperate. IBU is further entitled to bill the client for these additional costs, even if the parties have agreed to a fixed or maximum price.

## **5. Fees**

5.1 The fees for verification and provision of the trade mark can be found in the applicable version of the IBU membership fee regulations (trade mark fees).

5.2 The trade mark fees comprise a one-time fee per declaration to cover the costs incurred for verification and provision of the trade mark and an annual declaration fee beginning on the date the declaration is issued and valid for one year.

5.3 Special cases of declaration issuance and individual services will be contracted and billed separately.

## **6. Payment terms**

6.1 All invoice amounts are due immediately upon receipt without deduction.

6.2 Individual discounts may be granted when multiple EPDs are submitted at the same time.

6.3 Payment transfers should indicate the invoice number and client's membership number and be made to the bank account of the Institut Bauen und Umwelt e.V. designated on the invoice.

6.4. If clients miss the payment deadline, IBU is entitled to charge them a late fee equal to 8% above the base interest rate of the Deutsche Bundesbank.

6.5 If clients remain in arrears after being given a reasonable grace period for payment, the IBU may terminate the contract, revoke the declaration, claim compensation for damages related to non-performance, and refuse to execute the contracted services.

6.6 The provision set forth in 6.5 also applies to the non-payment of cheques, the suspension of payments, the initiation of insolvency proceedings, and the refusal to initiate insolvency proceedings due to insufficient assets.

6.7 Clients may only set off uncontested, legally established claims against the claims of IBU.

## **7. Confidentiality**

7.1 "Confidential information" within the sense of this agreement includes all information, documents, images, drawings, know-how, data, samples and project materials handed out from one party (the "disclosing party") to the other party (the "receiving party"), transmitted or otherwise disclosed during the term of this agreement. This includes copies of this information in paper form and digital form.

7.2 All confidential information transmitted or otherwise made

accessible by the disclosing party to the receiving party

a) may only be used by the receiving party to fulfil a purpose of the contract, provided that the disclosing party has not expressly agreed otherwise in writing,

b) may not be reproduced, disseminated, published or shared in any other form, provided this is not necessary to fulfil the purpose of the contract or IBU is not obligated under legal or official provisions to share confidential information, test reports and documentation with government agencies or with third parties involved in performance of the contract,

c) must be handled by the receiving party with the same confidentiality as it would handle its own confidential information, and in any case with no less diligence than the necessary, objective diligence would predicate.

7.3 The receiving party will only make the confidential information obtained from the disclosing party accessible to those employees and/or vicarious agents who require it to render the services for which contract has been created. The receiving party will obligate these employees and/or vicarious agents to handle the confidential information with the same confidentiality and diligence as defined herein.

7.4 Confidential information within the sense of this agreement does not include information which the receiving party can demonstrate that

a) was already known by the public at the time of disclosure or would have become known by the public without breaching the terms of this agreement, or

b) was obtained from a third party which was entitled to share it with the receiving party, or

c) was already in the possession of the receiving party at the time it was transmitted by the disclosing party, or

d) was developed independently by the receiving party irrespective of the disclosing party transmitting it.

7.5 Confidential information remains the property of the party which disclosed it. The receiving party hereby agrees that, at the request of the disclosing party at any time, but not later than upon termination or expiration of this contract immediately and without separate request, it will (i) return all confidential information, including all copies thereof to the disclosing party or, at the latter's request, (ii) destroy the confidential information, including all copies thereof, and confirm to the disclosing party in writing that said confidential information has been destroyed. The reports and attestations created for the client exclusively for fulfilment of the contractual duties under this contract remain with the client and are excluded from the provision above. However, IBU is entitled to store copies of the confidential information which forms the basis for preparing declarations and is needed to prove the correctness of the results and for other general documentation purposes.

## **8. Copyrights**

8.1 All sole copyrights and joint copyrights for results, calculations, charts etc. created by IBU within the scope of the contract remain the property of IBU.

8.2 The client may only use the expert opinions, test results, calculations, charts and declarations prepared within the scope of the contract for the purpose for which they were contractually designated.

8.3 The right to use an EPD belongs to the client mandating the EPD. Changes to the layout and content of an EPD are generally not permitted. Exceptions are only permitted with the consent of IBU.

## **9. Liability**

9.1 IBU and its vicarious agents are only liable for property damage and financial

loss arising from negligent conduct if said damage or loss is the result of the breach of material contractual duties; the amount of liability is nevertheless limited to the foreseeable damage or loss typical for such contracts at the time the contract was concluded.

Liability is excluded for slightly negligent conduct in the fulfilment of immaterial contractual duties.

9.2 The aforementioned limits on liability set forth in 9.1 do not apply to damage or loss arising from deception, or intentional or grossly negligent conduct by the legal representatives of IBU or its vicarious agents, nor does it apply to damage or loss arising from the breach of duties if IBU warranted their fulfilment.

9.3 If it has breached a cardinal duty, IBU is also liable in cases of slight negligence. Cardinal duties in the sense of this agreement include material contractual duties whose fulfilment is crucial to the proper performance of the contract in the first place and whose compliance the client is entitled to rely on. The claim for compensation of damage or loss if IBU breaches a cardinal duty is limited to the damage or loss which is a typical possible result of the breach of contract and which is foreseeable at the time the contract is concluded (typically foreseeable damage or loss), provided that the provisions of 9.2 do not apply.

9.4 IBU's liability is limited to EUR 1,000,000 per event of damage or loss.

9.5 IBU is not liable for damages based on inaccuracies arising during the transfer of the data required for the verification procedure. Furthermore, IBU's liability is excluded if the client is not the legal owner of all documentation and information submitted to IBU for the verification procedure and these are not free from the rights of third parties.

9.6 Claims for compensation of damage or loss expire according to the statutory regulations.

**10. Partial unenforceability, written format, jurisdiction**

10.1 There are no verbal side agreements.

10.2 Amendments and additions to this contract must be in written format to be legally valid. This also applies to any changes to this requirement that amendments and additions be in written format.

10.3 If one or more provisions in this contract should be or become unenforceable, the contractual partners will cooperate to replace the unenforceable provision(s) with (a) legally enforceable one(s) which comes as close as possible to the original(s) in terms of legal and business intent.

10.4 The jurisdiction for all disputes concerning this contract is the courts of Berlin. This contract is subject to the laws of the Federal Republic of Germany.