



Amelunxenstr.30 48167 Münster
☎ + 49 (0) 2506 70 990 70
Fax + 49 (0) 2506 70 990 99
Internet: www.crashtest-service.com
E-Mail: info@crashtest-service.com

Geschäftsführender Gesellschafter
Dipl.-Ing. Peter Schimmelpfennig
Geschäftsführer
Dr. Mirko Dobberstein
AG Münster HRB 5944
USt.-IdNr. DE212794970

Volksbank Münster
IBAN DE 18 4016 0050 1004 3987 00
BIC GENODEM1MSC

General Terms and Conditions of Business

of

crashtest-service.com GmbH
Amelunxenstr. 30
48076 Münster

Date: April 2020

for the performance of crash tests

1. Scope of application and general terms

- 1.1 These General Terms and Conditions of Business (hereinafter “the Terms”) apply to all business relationships between crashtest-service.com (hereinafter “CTS” or “We”) and its customers (hereinafter “Customers”) concerning the performance of crash tests, (hereinafter also “Crash Test Agreement”). The Terms shall however not apply for the performance of crash tests on the basis of standard norms such as the European Standards (EN). These standardised crash tests are governed by the separate General Terms and Conditions of Business for the performance of crash tests in accordance with standard norms.
- 1.2 The Terms only apply if the Customer is an entrepreneur (Section 14 BGB [*German Civil Code*]), a legal person under public law or a separate public legal entity.
- 1.3 The Terms also apply in their respective current version as a framework agreement for future agreements with the same customer on the provision of crash tests, without our having to refer again to the application of the Terms in every individual case. In this case we shall immediately inform the Customer of any changes to our Terms.
- 1.4 Exclusively our Terms apply. Diverging, contradictory or supplementary general terms and conditions of business of the Customer shall only become an integral element of the Agreement if and insofar as we have expressly agreed to their application. This requirement for our agreement applies in every case, for

example even if we accept the Customer's order without reservation in the knowledge of the Customer's general terms and conditions of business.

- 1.5 Legally relevant declarations and indications that have to be issued to us by the Customer after the Agreement has been concluded (e.g. the setting of deadlines, reminders, declaration of withdrawal etc.) require the written form in order to be effective.
- 1.6 References in these Terms to the application of statutory provisions are for the purposes of clarification only. However, the statutory provisions are applicable even without such clarification insofar as they are not modified or expressly excluded in these Terms.

2. Binding nature of our quotations

Unless stated otherwise in the quotation, we are bound by our quotations for 4 weeks from the date of the respective quotation.

3. Customer's specifications

- 3.1 We perform each crash test according to the Customer's specifications. For this, the Customer must make all the documents and information necessary for the performance of the crash test (hereinafter "the Customer Documents") available to us at our registered office in full and at least 5 working days – determined by these being received in good time by CTS – before the start of the performance of the contractually agreed service free of charge by email, fax or post.
- 3.2 The Customer is solely responsible for the Customer Documents. CTS is not obliged to examine the Customer Documents, especially in respect of their correctness, completeness, plausibility etc. CTS's duty in this respect is restricted to adherence to the Customer's specifications insofar as these are identifiable from the Customer Documents made available in accordance with Point 3.1. However, if and insofar as it should become apparent in advance of or during the execution of the Crash Test Agreement that the specifications are not implementable, or are incomplete and/or incorrect, CTS shall inform the Customer of this immediately and discuss the further process with the Customer without prejudice to any claims by CTS on account of the defects in the specifications.

4. Performance and documentation of the crash test

- 4.1 CTS's obligation to perform is limited to the performance of the crash test without predetermined results in accordance with the Customer's specifications and in accordance with Point 3 above. Insofar as adverse weather conditions make a corresponding performance of the crash test on the agreed date disproportionately difficult or prevent this, CTS shall agree a new date with the Customer as soon as possible.
- 4.2 The following tolerances are deemed to be permitted during the performance of the test: collision speed: +/- 8%; collision angle: +/- 5°; point of impact: +/- 25cm.
- 4.3 CTS documents all crash tests. Insofar as the Customer does not expressly object when placing the order, CTS is entitled to make the respective documentation of the crash test (together with the technical parameters for the performance of the test) available for use by third parties after the expiry of 30 days from the performance of the test in return for a consideration, amongst other things via the CTS crash test database. For the purpose of this utilisation of the documentation by CTS, in this event the Customer shall grant CTS the rights to the documentation in accordance with Point 5 below.
- 4.4 The possibility of utilising the documentation of the crash test forms part of the calculation of the quotation from CTS to the Customer. Therefore if, as a consequence of an objection by the Customer in accordance with Point 4.3, the utilisation of the documentation by CTS should not be possible, the net remuneration payable to CTS by the Customer in accordance with the quotation (remuneration excluding VAT) for the performance of the crash test shall be increased by 30%. The Customer's attention will be drawn to the right to object and the aforementioned consequences of objecting in the context of order placement.

5. Rights of use

- 5.1 Insofar as the Customer agrees to the utilisation of the crash test documentation in accordance with Point 4 above, the rights to the use of the documentation material – with the exception of the rights conclusively granted to the Customer under 5.2 – shall remain exclusively and wholly with CTS. This includes in particular, but not exclusively, the rights to the reproduction, dissemination and editing of the documentation material and of making it accessible to the public. In this case CTS shall be entitled in particular to make the documentation material available to third parties in return for payment, amongst other things in the context of the CTS crash test database.

- 5.2 The Customer shall receive a simple, exclusive, non-transferrable and non-sublicensable right to the use of the documentation material to the contractually agreed extent (in respect of the content, time and territory). Insofar as no express agreement has been made in respect of the use, the rights shall be allocated to the Customer to the extent necessary for the achievement of the contractually stipulated purpose.
- 5.3 The Parties are in agreement that in the case of the rights to the documentation material remaining with CTS in accordance with Point 5.1, this shall be remunerated with the calculation of the price quoted for the performance of the crash test, which already takes account of these rights remaining with CTS. No participation by the Customer in the proceeds of the utilisation of the documentation material by CTS shall take place.

6. Defective performance

- 6.1 CTS is entitled to improve a defective performance or provide it again (hereinafter referred to jointly as "Supplementary Performance"). The Customer shall set an appropriate grace period for this for CTS. Only if the Supplementary Performance fails, is not undertaken within the specified period or is seriously and definitively refused by CTS shall the Customer be entitled to assert any further rights that exist by law.
- 6.2 Objections to the performance by CTS must be notified immediately by the Customer in writing. Claims in connection with the defectiveness of the performance shall expire one year after the statutory commencement of the limitation period.

7. Liability

- 7.1 In the event of the intentional and grossly negligent breach of duty we shall be liable – for whatever legal grounds – in accordance with the statutory provisions.
- 7.2 In the event of ordinary negligence, we shall be liable only for damages arising out of death, injury to body or to health as well as for damages arising from the breach of a material contractual duty. Material contractual duties are those the fulfilment of which enables the proper execution of the Agreement at all and upon compliance with which the Contractual Partner regularly relies and may rely. In the event of the breach of material contractual duties, our obligation to indemnity shall be limited to the typically occurring damages that were foreseeable at the conclusion of contract.
- 7.3 The limitation of liability regulated in Point 7.2 above shall not apply insofar as we have fraudulently concealed a defect.

7.4 Claims by the Customer in accordance with the Produkthaftungsgesetz [*Product Liability Act*] remain unaffected by the limitation of liability regulated under this Point 7.

7.5 The above limitation of liability shall also apply for the benefit of our management bodies, statutory representatives, employees and for the benefit of third parties that we use for the fulfilment of our duties.

8. Order cancellation

8.1 If the Customer cancels the order up to 14 days before the day of the contractual execution of the performance, the Customer must pay CTS 30% of the total remuneration provided for in the quotation.

8.2 If the Customer cancels the order less than 14 days before the day of the contractual execution of the performance, the Customer must pay CTS 50% of the total remuneration provided for in the quotation.

8.3 The Customer remains permitted to prove that no damage occurred or substantially less damage than in the flat rates specified in Points 8.1. and 8.2.

9. Confidentiality

9.1 CTS will treat the information received and created as part of the implementation of crash tests strictly confidential and will not forward it on to third parties who are not authorised persons nor make it accessible in any other way.

9.2 There is no obligation to maintain confidentiality if the information is made publicly accessible by the customer or if something otherwise has been agreed between CTS and the customer.

9.3 CTS will inform customers in advance regarding the information that CTS intends to make publicly available based on the applicable legislation or contractual authorisation, unless otherwise prohibited by law.

9.4 If CTS receives information regarding the customer that originate from other information sources other than the customer, CTS will treat this information and those sources confidentially. CTS will not disclose the information source to the customer without consent from the source.

9.5 CTS has expressly in writing obliged its employees, shareholders, managing directors, contractual partners, employees of external bodies and persons who work on its behalf to treat all information that

they receive or create as part of the implementation of crash tests confidentially, unless they are legally obliged to do otherwise.

10. Miscellaneous

- 10.1 The relationship between the Customer and us is subject exclusively to the law of the Federal Republic of Germany.
- 10.2 The place of jurisdiction for all disputes arising from the business relationship between the Customer and us is Münster (Westphalia).
- 10.3 If individual provisions of this agreement should be or later become ineffective, the effectiveness of the remaining provisions shall remain unaffected by this.

11. Terms of payment

- 11.1 After conclusion of the contract, 50 percent of the test costs as well as 100 percent of the vehicle costs are to be paid within 10 days after receipt of the invoice. If the amount has not been paid in due time, CTS may cancel the test at the expense of the customer. The vehicle remains property of CTS and will be disposed of by CTS.
- 11.2 The remaining 50 percent of the test costs will be requested in the form of a final invoice after the test has been carried out and must also be paid within 10 days of receipt of the invoice. The final invoice also includes any individual requests made by the customer as part of the test preparation / execution, which requires additional work by our technicians or engineers. The hourly rate for additional work by our experimental technicians is 70€, for state-certified technicians 100€ and for our engineers is 140€.