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## **General Terms and Conditions of Business**

of

**crashtest-service.com GmbH**  
**Amelunxenstr. 30**  
**48076 Münster**

Date: August 2020

**for on the use of the online crash test database**

### **1. Scope of application and general information**

1.1 crashtest-service.com GmbH ("CTS" or "we") offers documentation material on experiments and crash tests for acquisition in return for the payment of a fee, which are accessible via its online crash test database at [www.crashtest-service.com](http://www.crashtest-service.com) ("Internet database"). These General Terms and Conditions of Business ("Terms") specify the conditions for registration for the Internet database and the acquisition of the documentation material, which takes place on the basis of individual contracts concluded separately in each case.

1.2 These Terms apply to all business relations between us and our customers ("the customers") within the framework of the use of our Internet database.

1.3 The Terms also count as a framework agreement for future contracts with the same customer on obtaining documentation material via the Internet database, without our having to refer to them again in every individual case.

1.4 Our Terms apply exclusively. Deviating, contradictory or supplementary general terms and conditions of business of the customer will only become an integral element of the contract when and insofar as we have expressly agreed to their application. This requirement for our consent applies in every case, for example also when we implement the service to the customer without reservation in the knowledge of their terms.

1.5 Individual contracts made with the customer in the individual case (including subsidiary agreements, additions and modifications) take precedence over these Terms in every case. A written contract or our written confirmation is decisive for the content of such agreements.

1.6 Legally-relevant declarations and notifications that must be issued to us by the customer after conclusion of contract (e.g. setting of deadlines, notifications of defects, declaration of cancellation or reduction in price) require the written form in order to be effective.

1.7 References to the application of legal provisions are for the purposes of clarification only. Even without such clarification, the legal provisions thus apply insofar as they are not directly modified or expressly excluded in these Terms.

## **2. Subject of the contractual relationship**

2.1 The subject of the contractual relationship between CTS and the customer is the use of the Internet database, in particular the acquisition of documentation material via the Internet database.

2.2 Via the Internet database, CTS sells documentation material about collision experiments or crash tests ("documentation material"), which can be obtained in electronic form as data by way of downloads after prior registration (below in Point 3.). In each case the acquisition of documentation material takes place on the basis of separate individual contracts. Registration does not establish an obligation for any party to conclude corresponding individual contracts.

## **3. Registration for the Internet database**

3.1 In order to be able to use the services of CTS within the framework of the Internet database, the customer must previously register online within the framework of the Internet database. No entitlement to registration exists. In particular CTS reserves the right to refuse a registration without stating reasons.

3.2 Registration is free of charge. To register, the customer must complete the online form within the framework of the Internet database and submit the application for registration by activating the "Register" button (offer from the customer to CTS to conclude the registration or admission to the Internet database). The receipt of the customer's offer will be confirmed to them by email ("confirmation of receipt of registration").

3.3 Insofar as CTS accepts the customer's offer – CTS can accept within 48 hours after receipt of the offer – this also takes place by email. The acceptance of the offer by CTS can be combined with the confirmation of receipt of registration, but can also take place separately subsequently. With the acceptance of the offer the customer's registration is completed.

3.4 With the completion of registration a gratuitous contract comes about between CTS and the customer on the use of the Internet database in accordance with the provisions of these Terms. On the other hand, the acquisition of documentation material takes place on the basis of separate individual contracts.

#### **4. Access to the Internet database and scope of use**

4.1 Upon completion of the registration the customer receives access to the Internet database for the duration of the registration. Via this access ("account") the customer can search the documentation material of the Internet database and view it to the extent of the preview (for this see Point 4.2 below) and then as applicable on the basis of separately concluded individual contracts acquire it at the prices stated within the framework of the Internet database.

4.2 Within the framework of the preview, the customer shall in principle receive full insight into the respective test data. If the customer does not acquire any documentation material within two months of the conclusion of registration (see Point 3.3), the customer's access will be restricted insofar as the extent of the test data that is visible via the preview will be restricted. In this case the customer has the opportunity of requesting the unrestricted preview again. For this, within the framework of the detailed view of a test the customer can select the option "Premium+" within the framework of the Internet database. The customer must then release the button "Go Premium" and will then again be approved free of charge for unrestricted access.

4.3 A customer that has registered for the use of the Internet database in accordance with Point 3 has the option of setting up access to the Internet database for employees of their company ("sub-account"). This option is restricted to the customer's employees; access to the Internet database must not be procured in this way for other third parties. Sub-accounts are accesses for the respective customer. Access via the sub-account always takes place in the name of the customer that concluded the registration. The customer is liable to CTS for actions undertaken via the account and the sub-accounts. The acquisition of documentation material via sub-accounts takes place in the name of the customer and is invoiced to the customer.

4.5 The customer administers their accounts, i.e. they can set up corresponding sub-accounts for their employees and also delete these again or withdraw them. The acquisitions of documentation material undertaken via the customer's account and sub-accounts are visible to the customer, broken down by accounts.

4.6 Access to the Internet database is restricted to the respective customer and their employees. In particular, the customer must not procure access to the Internet database for any third parties. Insofar as there is cause for suspicion that unauthorised persons have obtained knowledge of the customer's access details (e, through the loss of data), the customer must inform CTS of this immediately.

#### **5. Documentation material and access to the documentation material**

5.1 The documentation material documents the process and the essential result of the respective individual experiment or crash test. As applicable measurement tolerances stated in the documentation material must be borne in mind. There is therefore no (exact) reproducibility of the process and/or result of the respective experiment or crash test. When indicating test parameters, technical characteristics, performance data or other descriptions in the test documentation or within the framework of the database, CTS assumes no guarantee of

the correctness of this information. In particular the customer's attention is drawn to the fact that the use of the documentation material requires a well-founded knowledge and understanding of technical mechanics, vehicle dynamics and accident reconstruction.

5.2 The acquisition of documentation material via the Internet database by the customer takes place on the basis of individual contracts concluded separately each time. When the customer clicks on the "Purchase" button in the "shopping basket" dialogue window, a binding agreement comes about with the customer on the acquisition of the documentation material configured by the customer in accordance with the respective description within the framework of the Internet database and the prices stated there, and CTS acquires a claim against the customer for payment of the charge for this acquisition.

## **6. Obtaining the documentation material**

The documentation material that has been acquired is made available to the customer for call-off by means of a download via the Internet database (multiple downloads possible within the call-off period). The documentation material must be accessed by the customer via the link emailed to them by CTS within 14 calendar days of the link being sent (call-off period). With the expiry of the call-off period the customer is in default of acceptance. The material will not be held ready for download beyond this period. If no initial call-off takes place within the call-off period, the customer can however contact CTS to obtain the material, without prejudice to the claims to which CTS is entitled in connection with the default of acceptance.

## **7. Prices and payment terms**

7.1 The charges for the acquisition of the documentation material are determined depending on the configuration of the documentation material selected by the customer (type of experiment, experiment parameters, desired extent of documentation, etc.). They are shown to the customer separately for each individual crash test selected after the configuration has been completed and before the online order. The charges displayed in this way include the statutory VAT.

7.2 An invoice will be emailed to the customer for each acquisition of documentation material. The payment options stated within the framework of the Internet database are available to the customer for payment.

7.3 During default, interest is added to the charge for the acquisition at the respective statutory rate of default interest in force. We reserve the right to assert further damages arising from default. Our claim against businesspersons to the commercial default interest (Section 353 HGB [*Commercial Code*]) remains unaffected.

7.4 The customer is only entitled to rights of set-off and retention insofar as the their claim has been established as having legal force or is undisputed. In the event of defects in the documentation material the customer's opposing rights, in particular the right to retain a part of the charge appropriate to the defect, remain unaffected.

## 8. Granting of rights and contractual penalty for infringement

8.1 CTS grants the customer a simple (not exclusive), non-transferable and non-sublicensable right, without restrictions in terms of time or place, and subject to the condition precedent of the full payment of the charge payable for the acquisition, to use the documentation material for the purpose to be stated by the customer within the framework of the purchase in accordance with Point 5.2 (for example indicating the claim number or expert report number). Insofar as the documentation material is material that originates from the Gesamtverband der Deutschen Versicherungswirtschaft e. V. (GDV) [*German Insurance Association*], (reference will be made to this as applicable within the framework of the database), the aforementioned right of use granted is additionally restricted insofar as the documentation material can only be used for the preparation of an expert technical or legal report in connection with an accident (hereinafter: the expert report) (only permitted purpose). Insofar as the subject of the contractual use is the preparation of an expert report, the customer is only authorised as applicable to reproduce and disseminate the documentation material for the expert purpose for which the expert report was prepared.

8.2 The indication of the purpose in accordance with Point 8.1 serves exclusively for determining the specific details of the restriction of the right of use granted. In particular CTS does not check whether the respective documentation material ordered is suitable for the stated purpose. Solely the customer is responsible for the suitability of the documentation material ordered for its purpose.

8.3 Any other use of the documentation material is expressly forbidden. The following in particular are forbidden

- any dissemination of the documentation material to third parties (apart from an expert report or other purpose in accordance with Point 8.1);
- irrespective of the stated purpose the inclusion of the documentation material in a database is strictly forbidden;
- any other use of the documentation material outside the purpose;
- use within the framework of an expert report outside the expert purpose for which the expert report was prepared.

8.4 For every culpable infringement of the restrictions on use in accordance with Points 8.1 and 8.3 above, the customer shall pay CTS a contractual penalty in the amount of 300% of the respective order value. Possible further claims to compensation that are to be settled with the contractual penalty remain unaffected by this.

## 9. Customer's duties

9.1 The customer warrants that all information provided to CTS by the customer – in particular the details within the framework of registration in accordance with Point 3. and within the framework of the order in accordance with Point 5.2 – are complete and correct. The customer shall immediately inform CTS of changes to the details provided by the customer within the framework of registration.

9.2 When using the documentation material or parts thereof, the customer shall refer to [www.crashtest-service.com](http://www.crashtest-service.com) as the source in such a way that no doubts are possible as to the attribution of the documentation materials to their source. CTS is further entitled at its own discretion to encode documentation material with a watermark or other process, insofar as the contractual use is not adversely affected by this.

9.3 For every culpable infringement of the duty of information in accordance with Point 9.2 the customer shall pay CTS a contractual penalty in the amount of 5% of the respective order value. Possible further claims to compensation that are to be settled with the contractual penalty remain unaffected by this.

## **10. Liability**

10.1 In the event of intentional and grossly negligent breaches of duty – on whatever legal grounds – we shall be liable in accordance with the statutory provisions.

10.2 In the event of simple negligence we shall only be liable for damages from the breach of a material contractual duty. Material contractual duties are such duties as make the proper execution of the contract possible at all, and on compliance with which the customer regularly relies and can rely. In the event of the breach of material contractual duties, our duty of compensation shall be limited to the typically occurring damages foreseeable on conclusion of contract.

10.3 The limitation of liability in accordance with Point 10.2 does not apply insofar as damages arising out of death, injury to body or health and claims in accordance with the Produkthaftungsgesetz [*Product Liability Act*] are involved, or insofar as a defect was fraudulently concealed or a guarantee of quality was assumed.

10.4 The above exclusions and limitations of liability apply to the same extent in favour of our legal representatives and assistants.

## **11. Term and termination of registration**

11.1 The usage contract in accordance with Point 3.4 runs for an indeterminate period and can be terminated by both parties without a notice period.

11.2 Termination by the customer shall take place by deletion of their account. In this case all sub-accounts will also be deleted. Termination by CTS shall take place in text form (e.g. email).

11.3 The right of the parties to extraordinary termination is not affected by the above provisions.

## **12. Handover point and availability**

12.1 The handover point for the Internet database and the documentation material is the router output from the CTS computer centre.

12.2 The availability of the services at the handover point is at least 99%. The available use (availability exists) also includes periods during

- malfunctions that are not attributable to CTS or its assistants or employees;
- minor reductions of the suitability for contractual use.

### **13. Changes to the Terms**

13.1 Insofar as CTS intends to change these Terms, CTS will inform the customer of the suggested change in writing or by email. Should the customer not object to the suggested change within 6 weeks of receipt of the notification of the changes, the changes shall be deemed to have been approved.

13.2 Insofar as the customer objects to the change within the set deadline, the contract shall be continued with the previous content and on the previous terms, without prejudice to the options for terminating the contract in accordance with Point 11. CTS shall inform the customer of these options separately in the notification of the changes.

### **14. Other provisions**

14.1 The place of jurisdiction for legal disputes from or in connection with agreements between CTS and the customer to which these Terms are applicable is Münster, Westphalia, Germany

- if the customer is a businessperson or
- if the customer is a legal person under public law or
- if the customer has no general place of jurisdiction within the territory of the Federal Republic of Germany.

In this case CTS is also entitled to select another place of jurisdiction provided for by law.

14.2 The law of the Federal Republic of Germany applies with the exclusion of the rules on the conflict of laws under private international law and with the exclusion of the UN Convention on Contracts for the International Sale of Goods.

14.3 Should individual contractual provisions of these Terms be or become ineffective, this shall not affect the validity of the remaining contractual provisions.