

GTC-AGROLAB-Polska-EN
GTC AGROLAB Polska (EN)

GENERAL TERMS AND CONDITIONS OF BUSINESS (GTCB)

of the AGROLAB GROUP with its German enterprises AGROLAB LUFA GmbH in Kiel, AGROLAB Umwelt GmbH in Kiel, AGROLAB Agrar GmbH in Sarstedt, AGROLAB Potsdam GmbH in Potsdam, AWV-Dr.Busse GmbH in Plauen, OWL Umweltanalytik GmbH in Leopoldshöhe, AGROLAB Labor GmbH in Bruckberg, AGROLAB Wasseranalytik in Eching and Fellbach near Stuttgart, AGROLAB Agrarzentrum in Leinefelde, AGROLAB GmbH in Landshut

and

AGROLAB Polska Sp. z o.o.
ul. Żyrzyńska 42, 24-130 Końskowola, Poland

Herein after referred to as: "Laboratory Group".

I. Applicability, requirement of the written form, amendments, jurisdiction and partial invalidity

1. These General Terms and Conditions of Business, hereinafter called GTCB, shall apply only to each delivery or other provision of services by the Laboratory Group for the benefit and commission of their Clients, that is natural persons, legal persons, as well as unincorporated bodies, hereinafter called the Client, with the exclusion of consumers, that is the persons who perform legal actions not directly connected with their business and professional activity. These terms and conditions pertain each time to all future trade relationships made with the Clients. They shall only be excluded in the case of a separate, written set terms and conditions of performing a given service by the Laboratory Group in agreement with the Client.
2. Amendments or supplementations to these GTC by separate agreement or to the contracts concluded in the scope of application of these GTC shall only be effective if made in writing. This also applies to the abrogation of the requirement of written form. Notice of termination and other declarations, which are directed towards the termination or cancellation of contractual relationships, shall also be effected in writing. The staff members of the Laboratory Group are not authorized to undertake amendments by separate agreement. Only the management of the relevant company of the Laboratory Group can conclude such agreements. General amendments or supplementations to these GTC by the Laboratory Group shall become effective after specific notification of the Customer, also for current contractual relationships, if the Customer does not contradict within four weeks of notification.
3. Legal relationships between the Client and the Laboratory Group, including the matter of their establishment, shall only be subject to the currently applicable provisions of the Polish law, and especially the provisions of the Civil Code.

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4. If any provision of GTCB has gaps or shall be deemed invalid, illegal or unenforceable for any reason whatsoever, this provision shall be invalid only to the extent of its invalidity, illegality or unenforceability, not affecting the remaining provisions of the general terms and conditions of sale. In the above case the Client and the Laboratory Group are obliged to establish an efficient regulation replacing the invalid provisions or gap, as close in its meaning to the economic intention of the parties within 14 days from its observance by any of the parties.
5. The amendments to GTCB can be introduced only with the agreement of the Management Board of the respective company belonging to the Laboratory Group.

II. Concluding agreements, the content of agreements, consultancy, provision of information and services by third parties

1. The offers made by the Laboratory Group are tentative and non-binding. The offer is applicable from the moment the Laboratory Group issues written confirmation of accepting the order of delivery or provision of services/service made by the Client. Accepting the offer may be made without the required written form if the parties have agreed on such a manner by way of a separate understanding or agreement separately concluded with the Client in writing, otherwise null and void.
 2. The content and scope of the order made stems from the nature of particular order and it is always confirmed in writing by the Laboratory Group upon order acceptance. Order acceptance does not constitute an obligation made by the Laboratory Group to achieve a set economic goal. The Laboratory Group has the right to individually set the method and the manner of providing the services, as it sees fit, based on its professional knowledge. In the case of a conformity assessment in which no information on the use of the measurement uncertainty is given, the sites of AGROLAB GROUP apply the discrete approach (Simple Acceptance) as a decision-making rule. This means that in such a case the measurement uncertainty is not taken into account in the conformity assessment, unless otherwise agreed with the customer.
3. The Laboratory Group provides analytical services; however, the test reports are sent to the Client via e-mail, with respective electronic signature. Thus, the Client should provide the Laboratory Group with its e-mail address to which the test reports should be sent. The Client is obliged to check new e-mail messages sent to the indicated e-mail address on a regular basis and notify the Laboratory Group if the test report was not delivered within the period indicated in the agreement. The Laboratory Group has the right to transfer the test reports also in a different form than that indicated by the Client (i.e. letter, telefax, customer portal, etc.).
4. The orders made by the Client do not oblige the Laboratory Group to give information, advice or present opinions, unless otherwise agreed upon based on a separate understanding or agreement. If, despite that, the information, advice or opinions are given, they shall be deemed as non-binding suggestions. Oral opinions are drawn up in writing only upon a written request made by the Client, submitted during order processing or in case an order made by it earlier involved drawing up a written opinion. In case of a failure to draw up a written opinion the Client may not invoke the binding character of the oral opinion.

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5. The Laboratory Group, while processing an accepted order on the basis of these GTCB or an understanding or an agreement separately signed with the Client, has the right to use the services of one or more contractors or other third parties who, in its opinion, are fit to execute such an order. The Laboratory Group is liable for such persons' actions as for its own.

III. Invoices, remuneration, increase in prices, advance payments, cost estimates

1. VAT invoices issued by the Laboratory Group after order execution are payable within 14 days from the date of their issuance, unless agreed upon otherwise. Offsets are allowed only on principles and conditions set forth in section VIII of GTCB. The invoices may also be transferred electronically if it was previously agreed upon. In such a case point II.3 shall apply, accordingly. Payments established as periodic are each time due at the end of a given month or at the end of another indicated period. The prices stem from the currently applicable price lists of the Laboratory Group and are net prices, thus, they do not include VAT tax due in the amount set by the applicable provisions of the law as of the date of issuing every VAT invoice, unless agreed upon otherwise.
2. The right of the Laboratory Group to receive remuneration or other payments for every particular delivery or service is established upon its provision, unless agreed upon otherwise.
3. The Laboratory Group reserves the option to increase the prices if, due to particular characteristics of the samples provided by the Client and not known to the Laboratory Group upon order acceptance, greater expenditures are needed, especially in the form of workload, greater usage of means and materials. Moreover, an increase in prices is allowed if there is a change in currently applicable legal regulations or other generally applicable provisions that must be observed by the Laboratory Group during order processing if, as a result, there is an increase of expenditure made by it and this increase is necessary to make the delivery or provide the services. The possibility of a price increase connected with increasing material and employee costs in case of providing professional services or those provided at a plant is also reserved. The above provision shall not apply if a set price was agreed upon with the Client. The price increase shall be justified upon notifying the Client on its introduction, stating detailed information on such an instance.
4. The Laboratory Group has the right, prior to order processing or during its processing, to request an advance payment amounting to 20% of the final order value, payable within one week from the date of the notification sent to the Client.
5. Prior to order processing the Laboratory Group shall draw up a cost estimate which shall be binding upon its acceptance in writing by the Client. Amendments to the cost estimate are allowed if, during order processing, due to reasons beyond the Laboratory Group's control, there is a significant overrun of costs indicated in the cost estimate. The Laboratory Group shall immediately notify the Client of such a fact. If the Client does not agree to the proposed amendments to the cost estimate, it can withdraw from the agreement with the Laboratory Group. In the above case the advance payment that had been paid by the Client is returned to the Client after deducting the costs borne by the Laboratories thus far and connected with the performed

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works pertaining to the order.

IV. Deadlines, additional deadline, acceptance, making complaints and corrective steps

1. Deadlines for particular stages of the order are set in writing with the Client upon order acceptance by the Laboratory Group. The deadlines may be subject to changes after prior agreement to such changes by the parties and their mutual acceptance made in writing. The agreed deadlines are not binding for Laboratory Group if the Client, prior to order processing, does not perform its obligations connected with cooperation needed for correct order processing. In such a case the date of the final order processing shall be extended by the time of the Client's delay.
2. If the Laboratory Group does not meet the binding deadlines or delivery dates or deadlines for provision a different service, the Client is obliged to grant the Laboratory Group an additional deadline of two weeks for the delivery or provision of the service. However, the additional deadline cannot be longer than the period initially indicated for the delivery or provision of another service.
3. The Laboratory Group has the right to submit every completed part of the service performed for separate acceptance. The Client is obliged to conduct partial acceptance of the service provided at a time and place previously set in writing with the Laboratory Group.
4. The Client is obliged to notify the Laboratory Group of its reservations in writing concerning visible defects within one month from the date of receipt of the subject of delivery or the result of a different service. Otherwise it is deemed that the subject of delivery or the result of the service performed was accepted as defect-free. If the Client is a legal person or unincorporated entity, then the obligation of investigating and notifying on the defects within the scope not provided herein shall be based on legal regulations contained in the provisions of the Civil Code. If the Laboratory Group provides professional services or those performed at the plant for the Client, then the Client is immediately obliged to check the results of such a service, not later than within one week from the date of its receipt and to notify the Laboratory Group in writing on the visible defects. Otherwise it is deemed that the result of the service performed was accepted as defect-free. In order to observe the notification date only the respective post date shall suffice. The requirement of notifying the Laboratory Group in writing on the defects of the subject of delivery or the result of a different service, which shall be observed at a later time, within one month from the date of their observance is applicable to all Clients. Otherwise it is deemed that the subject of delivery or the result of the service performed was accepted as defect-free.
5. If a delivery or another service provided by the Laboratory Group is not defect-free, the Client may request corrective steps to be undertaken. The correctives steps, in line with the Client's decision, may involve removing the defect or providing a defect-free item. If the Client selects the defect removal option, the Laboratory Group has the right to refuse the repair if it involves excessive costs. Excessive costs mean the costs that exceed 200% of the entire order value. While undertaking corrective steps request to lower the remuneration or withdrawal from the agreement by the Client is not permitted. The Laboratory Group shall undertake corrective steps

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within 14 days. However, in particularly justified cases this deadline may be prolonged up to 30 days from the date the corrective steps request was made by the Client. The Laboratory Group shall immediately notify the Client on the necessity to prolong the deadline for corrective steps to be undertaken indicating the reasons thereof. The repair is deemed as unsuccessful after the second failed attempt to remove the defect. If the repair failed or the Laboratory Group refused to undertake all corrective steps, then the Client, at its discretion, can request lowering the remuneration or withdraw from the agreement.

V. Liability for defects, limitation period, other damages and guarantee

1. The rights resulting from statutory warranty for physical defects shall expire after one year from the date the subject of delivery or the service was released to the Client. It shall not apply in the following cases: if the Laboratory Group deceitfully failed to mention the existence of the defect; if the Laboratory Group involves construction; if the subject of delivery, due to its atypical intended use, is used in constructions and thus it shall cause a defect to occur in such constructions; if a different service provided by the Laboratory Group presents the construction or the plant whose success is based on planning and supervising construction; if the Laboratory Group has assumed the guarantee based on the properties of another service. In the above cases these rights shall expire after 3 years from the date on which the subject of delivery or service was released to the Client.
2. The above provisions do not affect the Client's right to seek further claims for damages.
3. If the Laboratory Group has issued a guarantee in reference to a given subject of delivery or the result of a different service, the Laboratory Group is also liable under the said guarantee. The guarantee is issued by releasing the guarantee document to the Client which it receives upon acceptance of the subject of delivery or a different service covered by the order. If the guarantee does not state otherwise, the guarantee issued by the Laboratory Group only covers the defects that occurred due to the reasons of the sold item.

VI. Samples – provision, liability and storage; transportation risk

1. If, for order processing purposes, the Client is required to provide samples, the Client bears the costs and the risk of their delivery to the venue indicated by the Laboratory Group. The above provision shall not apply if the sample material is collected by the Laboratory Group from the Client at an agreed place and time based on a separate understanding. If the samples are sent by the Client via postal services or other entities that provide courier services, the Client is obliged to pack them accordingly, taking possible guidelines given by the Laboratory Group into consideration.

Hazardous materials (e.g. toxic, caustic, explosive, flammable, radioactive), as well as samples of harmful and devastating substances (such as chlorine, bromine, mercury, fluorine, arsenic, etc.) can be provided only after prior agreement with the Laboratory Group. The Client is obliged to provide any information on the risk and handling of the given samples known to it to the

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2. In order to provide protection to the Laboratory Group and to its employees the Client, when sending hazardous substances, is also obliged to place visible information on the sample packaging stating that it contains hazardous substances. Such a label should be in line with the provisions of the Regulation of the Minister of Health dated 5th March 2009 on labelling of hazardous substances and preparations, as well as certain chemical preparations. Hazardous substances and hazardous mixtures are defined in line with article 4 of the act of 25th February 2011 on chemical substances and their mixtures (Journal of Laws of 2011, no. 63, item 322). In case of hazardous substances which can cause an explosion or, due to other reasons, are hazardous during transport, the Client is obliged to notify the Laboratory Group on such a parcel prior to sending the samples and to observe the guidelines given by the Laboratory Group, as well as to proceed in line with the rules set forth in the act of 25th February 2011 on chemical substances and their mixtures. The Client is liable for damage suffered by the Laboratory Group or its employees as a result of breaching the obligations mentioned hereinabove.
3. The Client is liable for any damage caused by the hazardous or destructive properties of sample material if it did not notify the Laboratory Group in writing earlier on the hazard connected with the fact that the delivered samples are hazardous substances within the meaning of the provisions quoted in paragraph 2. The occurrence of each damage is documented by drawing up a loss analysis protocol by the Laboratory Group. The Client is released from the liability if it complied with all its obligations pertaining to granting information on the threats and substance handling, and the resulting damage was caused by improper actions taken by the employees of the Laboratory Group or third parties.
4. The Laboratory Group is not obliged in any way to store the samples nor to store them for a longer period of time than it was set out in the respective provisions of the law, unless agreed otherwise in writing. The sample material that has not been used up nor processed shall be, according to the Laboratory Group's decision, stored or shall be disposed of at the Client's cost, unless agreed otherwise. If the sample material should be qualified as special waste, the Laboratory Group may send it back to the Client also at the Client's cost. In other cases the materials are not sent back nor released to the Client.
5. The Client's documents and other property or belongings, including the data, shall be sent or transferred in a different manner to or from the Laboratory Group only at the Client's risk and cost.

VII. Software

The software made available by the Laboratory Group was developed with utmost care and has been thoroughly tested on various computer systems. No errors were observed in the released versions of the products. However, given the present state of the art, there is no possibility of creating software which is absolutely error-free. Thus, the Laboratory Group is not liable for lack of compatibility with hardware components and other software products or their components. The software is only made available by the Laboratory Group without giving any guarantee of its usefulness for particular application. The entire risk resulting from using the software rests on its user. The Laboratory Group is not liable for damage that directly or indirectly stems from using the software unless the damage was caused either intentionally or through grave negligence of the Laboratory Group. If errors occur the Laboratory Group shall take every action to eliminate them when possible and offer an error-free

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version of such software.

VIII. Offset, the right of retention, the right to refuse provision of services and the non-assignment clause

1. The Client can offset any payables of the Laboratory Group only against its own undisputed or judicially determined liabilities which it is entitled to from the Laboratory Group. If the Client is a legal person or an unincorporated entity, then pursuing the right to refuse provision of services or the right of retention is excluded, unless such a right would be indisputably or judicially recognized.
2. In case of occurrence of objectively justified doubts as to the Client's solvency, the Laboratory Group shall make further continuity of the order performed for the Client dependent on advance payment of the entire sum agreed upon made by it and the payment of the amounts due for the performed orders for which VAT invoices had been issued and whose payment was not effected in the set deadline.
3. The assignment of the Client's claims against the Laboratory Group requires prior consent made in writing.

IX. Execution of agreements, return of expenditures and the right to remuneration

In case of withdrawal from or termination of the agreement by the Client, the Laboratory Group is entitled to receive all previously incurred expenditures, and especially the remuneration equal to actual workload incurred so far. The Laboratory Group may standardize the return of the expenditures and the remuneration, separately or jointly, and thus to request up to 20% of the expenditures or remuneration for the entire order. If the Client questions the amount calculated in such a manner, it can prove that the actual expenditures or remuneration connected with the actual workload incurred are far lower than the lump-sum set by the Laboratory Group.

In case of proving it the Client shall be entitled to the difference between the amount calculated by the Laboratory Group and the lower amount indicated by the Client.

X. Copyright and confidentiality

1. The laboratory group expressly reserves copyrights to expert opinions, test reports, analyses and similar deliverables and performance results to which such rights may arise.
2. The laboratory group grants the customer a non-exclusive license free of charge for the use of specialist opinions, test reports, analyses and similar deliverables, as well as the results of the

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work referred to in point 1 above, prepared by the laboratory group at the customer's request, to the extent resulting from the order placed by the customer in terms of its content, date and place. In cases of publication or distribution to third parties, the customer must ensure that personal data relating to the employees of the laboratory group (names of customer advisors and samplers) are made illegible. The customer shall remain responsible for any consequences resulting from the disclosure of such results to third parties and the reliance of such third party on such results. The customer hereby undertakes to indemnify the laboratory group and its employees and members of the management of the company against any claims by a third party arising from the dissemination of such results and/or trust in the same and resulting damages – actual or alleged.

3. The laboratory group will share analysis results, and similar knowledge gained in connection with an order, with the customer alone, unless otherwise agreed on a case-by-case basis. The laboratory group will treat information that is not already publicly known or accessible as confidential. However, the laboratory group may use the results for internal evaluation and may, for its own records, take copies of the documents it receives.
4. The laboratory group, acting as an entity processing personal data entrusted to it for processing by the Customer, is obliged to meet all the obligations set forth in the provisions on personal data protection.
5. The laboratory group processes and uses the client's personal data (such as contact persons or project managers) for order processing. The client recognizes that in order to provide the best possible service and make optimum use of AGROLAB's expertise and capacities, personal data as well as order-related survey data and, in exceptional cases, test results, can be transmitted to the member companies of the AGROLAB GROUP or its partners. The partners and laboratories of the AGROLAB GROUP are bound to data secrecy or are subject to an agreement on order processing. The client may object to this by writing to the laboratory group. In addition, the laboratory group processes and uses the data for the purposes of acquiring further business. The client can object to this by writing to the laboratory group or by sending an e-mail to data-protection@agrolab.de or ochrona.danych@agrolab.pl.
6. Further information and contacts regarding data protection can be found at <https://www.agrolab.com/en/gdpr.html>

XI. Liability and Force Majeure

1. In case of the Laboratory Group's liability for damage due to its own fault, including the basis for tortious claims, the following rules shall apply: The Laboratory Group is liable without any limitations for damages posing a threat to human life and health, as well as posing bodily harm, all and any damages connected with deliberate or gross misconduct or deceitful action of the Laboratory Group, its legal representatives or contractors. The Laboratory Group is also liable for damages caused by standard negligence if such a negligence pertains to breaching such contractual obligations whose observance is of special importance for execution of the agreement that is proper performance of the analysis and documentation of its results (primary obligations). However, the Laboratory Group shall only be liable if the damages are typically connected with the agreement and are foreseeable. Moreover, the Laboratory Group shall not be liable for breaching obligations that are of no material importance to the execution of the agreement by

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way of standard negligence. If the Laboratory Group has civil liability insurance, then the Laboratory Group's liability is limited to the Insurance Amount that stems from the civil liability insurance agreement concluded with the insurer. If the insurer is released from contractual service provision, then, if respective conditions occur, the Laboratory Group shall make their own compensations up to the insurance amount. If the Laboratory Group's liability is limited or excluded, this also pertains to personal liability of the legal representatives and contractors of the Laboratory Group.

2. If the order made is subject to special risk posing a threat to human life, health, bodily integrity or occurrence of especially significant property loss, then the Client of the Laboratory Group is obliged to notify the Group of that fact upon making the order.
3. When establishing, by any of the parties to the order, the amount of possible damages payable by the Laboratory Group or the Client, such a person shall, in good faith, take into consideration economic conditions, as well as the type, scope and duration of previous trade relations, and, if needed, also the value of the service to be performed for the benefit of the obliged person.
4. All and any incidents that are beyond the parties' control which affect the performance of the order by the Laboratory Group for the benefit of the Client and which fit the widely adopted definition of "Force Majeure" release the parties from liability against resulting delay and possible damages without the other party's right to make any claims. The parties are obliged to immediately notify one another of such incidents. This provision shall also apply if such incidents occur when one party is already failing to meet its obligations. In case of a failure to perform the order due to Force Majeure within the agreed period, the parties provide for a new deadline for the delivery following the cessation of the Force Majeure circumstances. In each case both the Laboratory Group as well as the Client shall make enquiries on the manner and time of possible order executions and shall adjust their obligations to the changed circumstances.

XII. Place of performance and jurisdiction

1. The place of performance is the registered office of the laboratory belonging to the Laboratory Group which was given the particular order.
2. All and any disputes arise during the performance of each order which the parties shall not resolve during amicable negotiations, shall be settled by the court having jurisdiction over the registered office of the laboratory which was given the particular order.
3. The place of jurisdiction of the assigned laboratory is likewise agreed upon, if the domicile or place of residence of the Customer is unknown at the time of filing action or if the Customer has moved his domicile or place of residence out of the area of application of the Polish laws after conclusion of contract.
4. E-Commerce (e.g. ALOORA): For the purpose of dispute resolution relating to contracts concluded online, we refer explicitly and as a precautionary measure in accordance with the Regulation (EU) No. 524/2013 to the upcoming OS platform (<http://ec.europa.eu/consumers/odr/>). It should assist both entrepreneurs (zentrale@agrolab.de) and private consumers in settling conflicts out of court. Both parties should be able to contact this platform in case of conflicts.