General Terms and Conditions

1. Scope
1.1 These General Terms and Conditions apply to all current and future business relationships with non-consumers within the meaning of Section 310(1) of the German Civil Code (BGB) and, in this respect, to all services, including, for example, quotations, consultancy, sales contracts, contracts for work and services, etc., even if they are not expressly incorporated or provided in subsequent contractual relationships.

1.2 Any deviating, conflicting or supplementary terms and conditions of the other contracting party shall not form part of the contract, even if we are aware of them; they are hereby expressly rejected.

1.3 Collateral agreements, reservations and amendments to the contract or these General Terms and Conditions shall require written confirmation by GINGER HPC to be valid. Insofar as deliveries and services are concerned to which, as appropriate, the VOF, VOL, VOB (Parts B and C) and the HOAI apply, these sets of rules shall apply the valid version at the time the contract is concluded and shall apply subordinately to the provisions in the contract/order confirmation and with priority over these General Terms and Conditions.

1.4 In the case of orders involving delivery to third parties, the purchaser shall be deemed the client and the invoice recipient, unless otherwise expressly agreed.

2. Use of Subcontractors
GINGER HPC is entitled to engage suitable subcontractors to carry out the work.

3. Obligations of the Client
3.1 The client shall name GINGER HPC the people who will be available as points of contact during the performance of the work and who are authorized as the client's representatives for the performance and, where applicable, amendment of the contract.

3.2 For the duration of the contract, the client must secure the construction site against unauthorized access by taking appropriate measures, such as erecting a site fence or similar. In doing so, the client must comply with the relevant statutory regulations. The client must inform GINGER HPC of any existing safety precautions and regulations, in particular accident prevention regulations, prior to the performance of the contract.

3.3 If the services provided by GINGER HPC involve the use of land not owned by the Client, the Client must submit written authorization for the use of such land prior to the performance of the services. In the event of long-term use, the relevant easements registered in the land register must be obtained from the owners concerned. The associated costs, rents and compensation shall be borne by the Client.

3.4 The location of cables, supply and disposal pipes and other underground installations must be specified in full and in good time before work commences by authorized people.

3.5 GINGER HPC shall not be liable for any infringements of legal rights or damages of any kind caused by GINGER HPC because of missing or incorrect information provided by the client. In this respect, the client shall also indemnify GINGER HPC against any claims by third parties.

4. Tender documents/contract documents
4.1 The documents forming part of GINGER HPC's quotation, such as cost estimates, illustrations, drawings, weight and dimension specifications and other documents, are only approximate unless they are expressly designated as binding. GINGER HPC reserves ownership rights and copyright in these documents; they must not be made available to third parties.

4.2 Insofar as the Client provides GINGER HPC with certain documents for the performance of the contract or is required to do so under the contract, the Client shall do so in good time so that the performance of the contract is not impaired. The Client shall guarantee the accuracy of such documents; GINGER HPC shall have no obligation to verify them.

5. Scope of Services
5.1 The scope of GINGER HPC's services shall be governed by the written contract or the written order confirmation; in the event of an offer from GINGER HPC and timely acceptance of that offer, the offer shall apply, provided that the contract has not yet been set out in writing and/or a timely written order confirmation has been provided. In the event of any discrepancies, the text of the order confirmation shall take precedence, followed by the text of the contract and, in turn, the quotation.

5.2 Partial performance/partial deliveries are permitted.

5.3 In accordance with industry practice, GINGER HPC shall quantify the measurement uncertainty of the sampling, including analysis, for all types of environmental sampling only where required by law or at the express request of the client. Such a request must be made prior to the submission of the quotation.

6. Terms of payment
6.1 Invoices are issued in euros plus statutory VAT. Payments are to be made within 14 days of a separate invoice being issued, strictly net without deduction.

6.2 In the event of late payment, GINGER HPC shall charge the client interest on arrears at a rate of 9 percentage points above the applicable base rate, as well as a flat-rate fee of €40. We reserve the right to claim higher damages for late payment.

6.3 Set-off against claims by GINGER HPC is only permitted in respect of counterclaims that are undisputed or have been established by a final and binding judgement. A right of retention arising from other transactions within the ongoing business relationship may not be asserted.

6.4 The assignment of claims requires the written consent of GINGER HPC.

6.5 If no specific remuneration has been agreed, the remuneration generally charged by GINGER HPC for this service on the date of performance shall be deemed to have been agreed.

7. Liability
7.1 Claims by the client for damages and reimbursement of expenses, regardless of their legal basis, are excluded.

7.2 This exclusion of liability does not apply
- in the case of damage caused intentionally or through gross negligence,
- in the event of a breach of material contractual obligations, including by legal representatives or vicarious agents of GINGER HPC; however, liability for damages and reimbursement of expenses arising from a breach of essential contractual obligations is limited to foreseeable and typically occurring damage, if GINGER HPC is not guilty of gross negligence or is liable for injury to life, limb or health. Essential contractual obligations are obligations the fulfilment of which is essential for the proper performance of the contract and on the observance of which the client may reasonably rely
- in the event of a culpable breach resulting in death, personal injury or damage to health
- in the case of defects fraudulently concealed and the assumption of a guarantee or a procurement risk
- in the case of claims under the Product Liability Act.

8. Force majeure/pandemic
8.1 Force majeure, industrial action, civil unrest, official measures and other unforeseeable, unavoidable and serious events shall release the contracting parties from their performance obligations for the duration of the disruption and to the extent of its effect. This shall also apply if these events occur at a time when the affected contracting party is in default. The contracting parties are obliged, within reasonable limits, to provide the necessary information without delay and to adapt their obligations to the changed circumstances in good faith.

8.2 This also applies to official measures taken in connection with pandemic events.

9. Compensation for damages in the event of withdrawal
If GINGER HPC withdraws from the contract for reasons for which the contracting party is responsible, in particular under the conditions set out in Section 321 of the German Civil Code (BGB), GINGER HPC shall be entitled to claim damages amounting to 20 per cent of the agreed price, unless the client can demonstrate to GINGER HPC that the loss incurred was lower. GINGER HPC's right to claim compensation for higher damages, if such higher damages are proven, remains unaffected.

10. Scope of insurance
GINGER HPC is insured against damage caused by the fault of its employees and/or the use of equipment and vehicles, with cover limits for personal injury, property damage and financial loss amounting to EUR 5,000,000. In the event of a claim, the client shall therefore have no right of retention or set off in this respect, if GINGER HPC demonstrates to the contracting party that it has sufficient cover by presenting the relevant insurance certificate.

11. Jurisdiction, applicable law
11.1 Where the client is a trader, a legal person, a body governed by public law or a special fund under public law, or has no general place of jurisdiction within Germany, the place of performance and the place of jurisdiction for all disputes arising from the contractual relationship – including proceedings relating to cheques, bills of exchange and documents – shall be the contractor's registered office.

11.2 German law shall apply to the contractual relationship. The application of the UN Convention on Contracts for the International Sale of Goods is excluded, as are those provisions of private international law which would lead to the application of foreign legal provisions.

12. Severability clause
Should any individual provisions of the contract be or become invalid, in whole or in part, this shall not affect the validity of the remaining provisions of the contract. The provision that is wholly or partially invalid shall be replaced by a provision whose economic effect comes as close as possible to that of the invalid provision. The same shall apply to mutatis mutandis in the event of a gap in the contract.

13. Information on consumer arbitration pursuant to Section 36 of the VSBG
We are, as a matter of principle, neither willing nor obliged to participate in dispute resolution proceedings before a consumer arbitration body.