

# Supplementary Terms and Conditions of Purchase of AVL List GmbH for Testing Services

## June 2024 version

Unless expressly agreed otherwise in writing, the following terms and conditions shall apply to the contractual relationship alongside the AVL List GmbH General Terms and Conditions for Purchasing as amended from time to time ("GTCP"), whereby these Supplementary Terms and Conditions for the Purchase of Testing Services shall take precedence over the GTCP in the event of contradictions. These Special Terms and Conditions for Purchasing and the GTCP shall be deemed to have been accepted upon commencement of the execution of the order, and the Contractor shall also recognise them as exclusively legally binding for all further orders and additional orders. The Contractor's deviating or supplementary terms and conditions shall apply if we expressly recognise them in writing.

## 1. Test bench capacity

- 1.1 The testing service provider undertakes to provide AVL with the specified test bench facilities, including the necessary infrastructure and personnel, in accordance with the project-specific and organisational requirements specified in the order, in order to ensure the smooth operation of the test benches used for AVL.
- 1.2 The testing service provider undertakes to hold and maintain all legal authorisations and permits necessary for the (commercial) performance of test runs.
- 1.3 The testing service provider shall ensure that the work on the test benches used for AVL is only carried out by qualified and professionally trained personnel.
- 1.4 All test bench and measuring equipment required for the tests specified in the order and the licences required for its use must be provided in full by the testing service provider. The detailed scope must be defined and agreed in a kick-off meeting with AVL before the start of the provision of the service.

## 2. Implementation

- 2.1 The testing service provider shall ensure the proper and professional execution of the test bench installation and the test runs through the work organisation and its own quality management. Installation and test runs shall be carried out in accordance with the order and AVL's specifications in close co-operation with AVL and/or the AVL customer. The necessary communication with the AVL customer shall take place exclusively via AVL.  
  
The testing service provider shall be responsible for carrying out the test runs and shall take all safety precautions necessary for the test operation in order to avoid damage to and failures of the test specimens and the facilities.
- 2.2 The testing service provider undertakes to provide the agreed services in accordance with the schedules defined in the relevant order. As soon as the testing service provider becomes aware that a deadline is unlikely to be met, the testing service provider shall notify AVL immediately in writing and take all necessary measures to minimise the delay.

AVL shall decide to what extent the deadline in question and any subsequent deadlines can nevertheless be met by means of suitable measures, and whether corresponding deadline and/or cost adjustments are to be made at the expense of the test bench service provider.

2.3 In the event of the failure of components of facilities made available to AVL that restrict operational readiness, the testing service provider shall be obliged to repair or replace them as quickly as possible.

2.4 If an unplanned downtime occurs during the test run due to the test specimen, the testing service provider shall inform AVL immediately so that the further procedure can be defined in order to resume the outstanding test programme. For the duration of the unplanned downtime, the testing service provider shall be entitled to charge the downtime costs in accordance with Section 2.5. If the test run cannot be continued after five working days, the test bench can be released after a written release has been issued by AVL.

Any repairs to the test specimen shall be carried out at AVL's discretion either on site by the testing service provider or by AVL itself. Before the repair is carried out on site by the testing service provider, a cost estimate must be sent to AVL and, if approved by AVL, invoiced according to actual expenditure. If the test specimen must be repaired at AVL, it must be ensured that the test run is then continued. The testing service provider shall be obliged to provide a corresponding resource for the continuation of the test programme. Costs for transporting the test specimen to AVL shall be borne by AVL.

If it is not possible to repair the test specimen, AVL shall communicate this to the testing service provider as soon as possible.

## 2.5 Postponement by AVL

If the test bench allocation agreed in the individual order cannot be adhered to for reasons for which AVL is responsible and if the testing service provider is not notified of the non-adherence at least 15 calendar days (in the case of a test duration of less than 21 days) or 30 calendar days (in the case of a test duration of more than 21 days) before the planned start of the test, the testing service provider shall be entitled to the following compensation payments for the relevant test bench ordered. The exclusive basis for these compensation payments shall be the agreed daily rate for the test bench in question. No compensation shall be paid for any additional costs (including personnel costs).

### 2.5.1 Specified test duration < 21 days \*

Postponement x days before planned test start			Downtime caused by	
> 14 days*	14 - 2 days*	1 - 0 days*	Service provider	AVL
0%	20%	70%	0%	70%

In the event of a postponement between 14 and 2 calendar days before the planned start of the test, the testing service provider shall be entitled to charge 20% of the agreed daily rate.

In the event of a postponement within the last calendar day before the scheduled start of the test, the testing service provider shall be entitled to charge 70% of the agreed daily rate.

In the event of an unplanned test downtime after the start of testing within the test operation, the testing service provider must submit a status report stating the cause of the downtime. If AVL is solely responsible for the cause of the test downtime, the testing service provider shall be entitled to charge 70% of the agreed daily rate. In all other cases, the expenses incurred as a result of the downtime shall be borne by the testing service provider.

The testing service provider must make every reasonable effort to occupy in another manner either in full or in part a test bench that is unoccupied for reasons for which AVL is responsible. In the event of alternative occupancy, the testing service provider shall not be entitled to compensation.

### 2.5.2 Specified test duration > 21 days\*

Postponement x days before planned test start			Downtime caused by	
> 29 days*	29 - 16 days*	<16 days*	Service provider	AVL
0%	10%	50%	0%	70% Max. 6 weeks

In the event of a postponement between 29 and 16 calendar days before the scheduled start of the test, the testing service provider shall be entitled to charge 10% of the daily rate.

In the event of a postponement within the last 15 calendar days before the scheduled start of the test, the testing service provider shall be entitled to charge 50% of the daily rate.

In the event of an unplanned test downtime after the start of testing within the test operation, the testing service provider must submit a status report indicating the cause of the downtime. If AVL is solely responsible for the cause of the test downtime, the testing service provider shall be entitled to charge 70% of the agreed daily rate, up to a maximum of 42 calendar days. In all other cases, the expenses incurred as a result of the downtime shall be borne by the testing service provider.

The testing service provider must make every reasonable effort to occupy in another manner either in full or in part a test bench that is unoccupied for reasons for which AVL is responsible. In the event of alternative occupancy, the testing service provider shall not be entitled to compensation.

## 2.6 Cancellation by AVL

If AVL cancels the individual contract for reasons for which the testing service provider is not responsible, if the testing service provider is not notified of the cancellation at least 31 calendar days (in the case of a specified test duration of less than 21 days) or 46 calendar days (in the case of a specified test duration of more than 21 days) before the planned start of the test and if the test bench occupancy is cancelled in its entirety, the

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\* Calendar days

testing service provider shall be entitled to the following compensation. The basis for any compensation payments shall be the agreed daily rate for the test bench in question excluding personnel costs.

### 2.6.1 Specified test duration < 21 days\*

Cancellation x days before planned test start				Cancellation after test start
> 30 days*	30 - 15 days*	14 - 2 days*	1 - 0 days*	
0%	20% Max. 2 weeks	30% Max. 2 weeks	70% Max. 2 weeks	70% Max. 2 weeks

In the event of cancellation between 30 and 15 calendar days before the planned start of the test, the testing service provider shall be entitled to charge 20% of the order value (max. 14 days).

In the event of cancellation between 14 and 2 calendar days before the planned start of the test, the testing service provider shall be entitled to charge 30% of the order value (max. 14 days).

In the event of cancellation within the last calendar day before the scheduled start of the test, the testing service provider shall be entitled to charge 70% of the order value (max. 14 days).

If the test is cancelled by AVL after the start of the test for reasons for which AVL is solely responsible, the testing service provider shall be entitled to charge 70% of the order value (max. 14 days).

The testing service provider must make every reasonable effort to occupy in another manner either in full or in part a test bench that is unoccupied for reasons for which AVL is responsible. In the event of alternative occupancy, the testing service provider shall not be entitled to compensation.

### 2.6.2 Specified test duration > 21 days\*

Cancellation x days before planned start of test				Cancellation after test start
> 45 days*	45 - 30 days*	29 - 16 days*	15 - 0 days*	
0%	10% Max. 6 weeks	20% Max. 6 weeks	60% Max. 6 weeks	70% Max. 6 weeks

In the event of cancellation between 45 and 30 calendar days before the planned start of the test, the testing service provider shall be entitled to charge 10% of the order value (max. 42 days).

In the event of cancellation between 29 and 16 calendar days before the scheduled start of the test, the testing service provider shall be entitled to charge 20% of the order value (max. 42 days).

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\* Calendar days

In the event of cancellation within the last 15 calendar days before the planned start of the test, the testing service provider shall be entitled to charge 60% of the order value (max. 42 days).

If the test is cancelled by AVL after the start of the test for reasons for which AVL is solely responsible, the testing service provider shall be entitled to charge 70% of the contract work (max. 42 days).

The testing service provider must make every reasonable effort to occupy in another manner either in full or in part a test bench that is free for reasons for which AVL is responsible. In the event of alternative occupancy, the testing service provider shall not be entitled to compensation.

2.7 If the agreed test bench service is not provided by the testing service provider (e.g. assembly and test errors, incorrect data recording, incorrect data evaluation), AVL shall be entitled to demand appropriate compensation, e.g. occupancy days free of charge.

2.8 AVL is authorised to place a resident engineer with the testing service provider for the implementation and supervision of projects at its own expense. The resident engineer shall be provided with the necessary access rights, access to the premises in which the order in question is being processed and the necessary infrastructure for the performance of his activities. AVL shall oblige the resident engineer in writing to comply with all necessary confidentiality agreements.

#### 2.9 Data connection

All measurement data must be named, structured and transmitted to AVL by the testing service provider in accordance with the "Data Handling Specification". The latest version of this specification will be made available to the testing service provider by AVL in the course of the enquiry and contracting.

In addition, the testing service provider and AVL shall each define a person responsible for this topic, who shall coordinate regularly and report on progress to the AVL project team.

#### 2.10 Transport and storage

The transport and environmentally friendly packaging and timely provision of the test carriers for collection by AVL shall be the responsibility of the testing service provider and shall be carried out on the basis of the ADR regulations applicable at the time of transport, including the preparation of transport documents and checklists.

The testing service provider shall nominate to AVL a person responsible for transport, who will liaise with AVL's transport department at regular intervals.

The testing service provider shall be responsible for the proper storage of the test carriers and transport containers. Storage must be carried out at least in such a way that damage caused by moisture, temperature fluctuations or vibrations is excluded.

After the end of the test and the transmission of all test data to AVL, the testing service provider shall ensure storage of test carriers free of charge for at least 20 working days.

### **3. Work results and property rights**

All data generated by the testing service provider as part of the provision of the contractual services, the results achieved and the information, interim results, calculations, programs etc. required for the exploitation of the project shall become the exclusive and unrestricted property of AVL immediately upon their creation. They shall be handed over to AVL in full. Insofar as results are protected by copyright, AVL shall receive the exclusive, free and unrestricted user right to them.

The testing service provider shall not assert any rights whatsoever to this data and, in particular, shall not use the data for big data purposes, such as data collection, the creation and maintenance of databases or the performance of data analyses. The aforesaid shall not affect the right of the testing service provider to use the data for the performance of the subject matter of the contract.

### **4. Reporting and audits**

The testing service provider shall provide AVL with full insight into the available work results at all times and provide all further information on request. In addition, AVL shall be granted free access to the premises where the relevant order is being processed during the normal opening hours of the testing service provider. The testing service provider shall report on the ongoing work in particular as follows:

- 4.1 Measurement data must be transmitted in accordance with the "Data Handling Specification". (see chapter 2.9)
- 4.2 A short daily status report on running time and downtime (with a brief description) shall be submitted by 08:00 a.m. on the following day. The template for this will be provided by AVL if required.
- 4.3 After completion of the stages of the contract to be defined in detail with AVL, the testing service provider shall send a brief e-mail notification of the results achieved to date. In addition, the tests carried out and any additional work shall be confirmed in writing in a performance report including their duration after completion or monthly in the case of tests lasting several months or extending over more than one month. The template for this will be provided by AVL if required.
- 4.4 The parties shall agree the scope and number of project meetings in the individual contracts. The testing service provider shall be obliged to actively organise these project meetings and to inform AVL of its own accord about the current status of the project in the meetings. In these project meetings, the parties shall regularly agree on the results and the details of the next steps. The time and place of these meetings shall be agreed between AVL and the testing service provider on an ad hoc basis. In addition, between the individual project meetings, the testing service provider shall also inform AVL immediately of all events relevant to the success of the project.
- 4.5 On completion of a project, the testing service provider must summarise the results achieved in a written final report (in German or English) without a separate request to do

so and send this to AVL as a PDF file together with all data via an exchange drive. The type and scope of the report shall be defined by the parties in the individual contracts.

## 5. Prices and payment

5.1 Payment for the services performed shall be made on the basis of the prices agreed between AVL and the testing service provider as part of the order, as well as the net test hours actually performed. Payment shall be due 90 calendar days after receipt of a proper and verifiable invoice from the testing service provider, including the proof of performance submitted in accordance with Art. 5.3. and approved by AVL, on the 10th of the month following the 90-day payment period.

5.2 All additional expenses incurred by AVL caused by the testing service provider shall be documented with the aid of a +/- list and claimed from the testing service provider at AVL's discretion in the course of invoicing.

5.3 The testing service provider shall report the tests carried out, the net hours actually worked and any additional work after completion or, in the case of tests lasting several months or extending over more than one month, monthly in a written performance record.

Additional expenses shall only be paid separately by AVL if they are demonstrably caused by AVL or the AVL customer and have been approved in advance by AVL. Services exceeding the scope of testing specified in the order shall be invoiced at the agreed hourly rates.

There shall be no entitlement to remuneration for downtime for which AVL is not responsible (e.g. repair of test benches, maintenance, etc.).

5.4 Payment of the fees in accordance with Section 5.1 shall fully cover all services and expenses rendered by the testing service provider as well as the rights transferred in accordance with Art. 3.

5.5 All invoices shall be itemised according to the individual test runs and sent to [Invoices-AVL@avl.com](mailto:Invoices-AVL@avl.com) after completion of the service. In the case of test runs spanning several months or extending over more than one month, the testing service provider shall be entitled to send monthly partial invoices.

If AVL is obliged to bear the costs in the event of a downtime in accordance with these conditions, and in order to achieve transparent cost allocation, the testing service provider shall state in the invoice not only the cause and duration of the downtime but also the type of personnel deployed to rectify the downtime and the manpower used. This level of detail shall also be required for maintenance and inspection activities.

All invoices shall also include the relevant SAP order number.

## 6. Confidentiality and data protection

The handling of confidential information shall be regulated in the GTCP and in the confidentiality agreements to be concluded with the testing service provider.

## **7. AVL customers**

The testing service provider undertakes not to communicate within the framework of the order or within the framework of the intended project with AVL customers or potential AVL customers during the term of the cooperation, i.e., among other things, the testing service provider shall not compete with AVL for (potential) AVL customers. This shall also apply to the offer phase before the start of the respective projects, in which contact between the testing service provider and the (potential) AVL customers may already take place (e.g. when visiting the test benches and other facilities of the testing service provider).

## **8. Problem-solving process**

Problems and anomalies in the course of the provision of the service must be documented and resolved for the long term by the testing service provider in accordance with the 8D problem-solving approach. All 8D reports created in connection with the provision of services for AVL shall be made available to AVL. If required, AVL shall provide the testing service provider with a template for an 8D report.

## **9. Improvement process**

The testing service provider shall constantly work on the further development of its services and inform AVL about new technologies and rationalisation measures. Furthermore, the testing service provider shall implement a permanent cost monitoring and cost reduction programme to ensure its long-term competitiveness.