

General Terms and Conditions of Business of TÜV SÜD Asia Pacific Pte. Ltd. (hereinafter referred to as “TÜV SÜD”)

1. General

- 1.1. These General Terms and Conditions of Business are applicable to all services provided by TÜV SÜD through its Digital Service Centre of Excellence (“the Services”).
- 1.2. The client shall accept TÜV SÜD’s General Terms and Conditions of Business and the prices valid at the time of order placement. Deviating terms and conditions of business of individual clients cannot be recognized as a matter of principle.
- 1.3. Additional terms and conditions may apply to services offered via an online store of TÜV SÜD or another TÜV SÜD group undertaking.
- 1.4. Ancillary agreements, promises and other statements by TÜV SÜD employees or officially authorized experts called in by TÜV SÜD shall only be considered binding if expressly confirmed by TÜV SÜD in writing. This shall also apply to any additions, alterations and/or amendments to these terms and conditions.
- 1.5. For the avoidance of doubt, any report delivered as part of the Services is not a certification and it cannot be used as a proof of passing any certification, qualification and regulatory requirements.

2. Contractual Performance and Clients’ Responsibilities

- 2.1. TÜV SÜD shall perform the Services in accordance with TÜV SÜD customary manner unless otherwise agreed in writing.
- 2.2. TÜV SÜD shall be entitled to make use of sub-contractors or partners in the implementation of the order.
- 2.3. The scope of the Services to be performed by TÜV SÜD shall be defined in writing on placement of the order. If any modification or extension of the scope proves necessary within the context of due performance of the contract, they shall be additionally agreed upon in advance and in writing.
- 2.4. The client shall supply the necessary accessories, information and/or documents, for the Services including but not limited to any test reports, product specifications, catalogues and instruction manuals. Until all necessary accessories, information and/or documents are supplied, TÜV SÜD will not commence the Services.
- 2.5. TÜV SÜD, at its sole discretion, reserves the right not to undertake the Services and to terminate the agreement for the same in the event the client fails to comply with the terms and conditions set out herein.

3. Delay or Failure of Performance

- 3.1. The deadlines for contractual performance quoted by TÜV SÜD shall be binding only if this has been explicitly agreed upon in writing.
- 3.2. TÜV SÜD shall not be liable for any delay or failure in respect of its contractual performance arising from any cause outside its control.
- 3.3. In the event that TÜV SÜD’s contractual performance is delayed due to any cause outside its control, TÜV SÜD shall have the option at its sole discretion to either (i) extend the period for performance in accordance to the period of delay; or (ii) terminate the agreement for the Services.

4. Warranty

- 4.1. TÜV SÜD does not give any warranty in respect of the proper condition and overall functioning of the systems, solution or networks which are inspected or tested by TÜV SÜD as part of the Services. In particular, TÜV SÜD shall not assume any responsibility for the design, materials and construction of the examined plants unless these issues have been explicitly included in the contract. Even if the latter is the case, the warranty and the legal responsibility of the manufacturer shall be neither restricted nor assumed.
- 4.2. TÜV SÜD warrants that it will exercise reasonable care and diligence in performing the services herein. Save as provided herein, all other warranties by TÜV SÜD, whether expressed or implied, are hereby expressly excluded.
- 4.3. The client warrants that all information and/or documents supplied to TÜV SÜD are accurate in all aspects and shall indemnify TÜV SÜD against all loss and damages arising from the Services herein caused by inaccurate information and/or documents supplied by the client.

5. Liability

- 5.1. TÜV SÜD shall only be liable for damages – regardless of their legal basis – if TÜV SÜD has caused any damage as a result of an intentional or grossly negligent act or if TÜV SÜD has negligently breached a substantial contractual obligation („material obligation“). In the event that TÜV SÜD is in breach of any substantial contractual obligations, TÜV SÜD shall only be liable for the damage related to and typically foreseeable under the particular contract at the time of entering into the contract.
- 5.2. Whilst all reasonable care will be taken where the systems components or equipment is in TÜV SÜD’s custody, TÜV SÜD shall not under any circumstances be responsible for any loss or damage to the systems components or equipment during transit or while in the custody of TÜV SÜD. The client shall arrange for all necessary insurance against accidental loss or damage to the systems components or equipment, either in transit or at TÜV SÜD’s premises.
- 5.3. Unless there is a written request made for the return of the systems components or equipment at the time when they are delivered to TÜV SÜD for testing, or where the agreement for testing expressly provides for the return of the systems components or equipment, all systems components or equipment provided to TÜV SÜD for testing will be disposed of after testing.
- 5.4. TÜV SÜD shall not be liable for any damages caused as a result of a negligent breach of a non-substantial contractual obligation
- 5.5. TÜV SÜD shall not be liable for any incidental, indirect, special or consequential loss or damage whatsoever, including, but not limited to, loss of revenue, profits, contracts, business or anticipated savings, or loss of goodwill or reputation, whether foreseeable or not and whether arising from any act or omission on the part of TÜV SÜD in the provision of the Services.
- 5.6. “Substantial contractual obligations” are those obligations that protect the customer’s legal interests deemed to be substantial to the contract, which the contract, based on its content and purpose, must specifically grant to the customer; further, such contractual obligations are substantial which are deemed to be prerequisites for proper performance of a contract and upon the observance of which the customer has generally relied and may rely.
- 5.7. TÜV SÜD’s total liability to the client under or in connection with the agreement for Services and/or in tort (including negligence) in any event (other than death or personal injury resulting from TÜV SÜD’s negligence) shall not exceed the amount of fees paid by the client to TÜV SÜD in respect of the Services.
- 5.8. Any person making claims under this contract shall without delay inform TÜV SÜD in writing about any potential damage for which TÜV SÜD could be liable

- 5.9. If claims for damages against TÜV SÜD are excluded or limited, this shall extend to any personal liability of any affiliates, experts, employees, agents or any other auxiliary personnel of TÜV SÜD.

6. Terms of Payment, Prices

- 6.1. Unless a fixed price or other calculation basis has been explicitly agreed upon, services shall be billed in accordance with the prices of TÜV SÜD valid at the time of the concluded contract. In the absence of an agreed schedule of prices applicable to all contracts with TÜV SÜD, the price must be agreed upon on a per-contract basis.
- 6.2. Reasonable advance payments may be requested and/or partial invoices covering services already rendered may be issued. Partial invoices need not be designated as such. The issue of an invoice does not mean that the order has been billed completely by TÜV SÜD.
- 6.3. TÜV SÜD shall inform the client of their given credit terms before the Services are rendered. Clients who are not given any credit terms by TÜV SÜD have to pay in advance. For clients who are given credit terms by TÜV SÜD, they will have to pay within the time stipulated in the invoice issued for the Services rendered.
- 6.4. The client agrees to indemnify and pay TÜV SÜD for all taxes, levies and duties including, but not limited to, goods and services tax or withholding tax which TÜV SÜD may be liable to pay as a result of providing the Services to the client herein.
- 6.5. Any objections to invoices must be made in writing to TÜV SÜD within a 14-day preclusion period after receipt of invoice, with reasons stated.
- 6.6. When a client decides to cancel the order for the Services, he may only do so by giving a notice in writing to TÜV SÜD within three working days after confirmation of the order. The client will be charged for all Services performed prior to such cancellation. If TÜV SÜD does not receive any written notice of such cancellation within this period, the full fee for the Services will be charged.

7. Force Majeure

In the event that either party is unable to perform its obligations to the other party in whole or in part or not in a timely manner due to an unusual and unforeseeable event beyond the control of that party (force majeure event), the affected obligations of the party relying on the force majeure event shall be suspended for as long as the force majeure event and its consequences persists; any obligations of the other party to provide consideration during this time shall lapse. Claims of the other party, in particular claims for damages, shall not arise in this respect. The party invoking force majeure shall, however, be obliged to inform the other party without delay in text form of the event, the suspended performance obligations and the expected duration of the suspension of the performance obligations. The same shall apply if, by observing a reasonable duty of care, the party invoking force majeure recognizes, whilst the performance obligations are suspended, that the notified probable duration of the suspension will change significantly. If the force majeure event lasts longer than six months from the first information to the other party, both parties shall be entitled to withdraw from the contract. The right of withdrawal shall be replaced by a right of termination for continued obligations. The suspension of a payment obligation - except in scenarios prescribed by law or if such payment obligation represents a consideration within the meaning of sentence 1 - cannot be based on force majeure.

8. Export control and embargoes

- 8.1. TÜV SÜD does not have the obligation to provide services in due time to the extent that and for as long as such provision of services would result in violations of export control and embargo restrictions. In such a case, TÜV SÜD agrees to notify the client in writing without undue delay about the fact that services may not be provided.
- 8.2. In the event that TÜV SÜD is prevented from timely provision of services because permits, licenses or other official procedures imposed by restrictions under export control and embargo law need to be obtained, the delivery and completion deadlines agreed by TÜV SÜD and the client with binding effect shall be adequately extended by the duration of the delay caused thereby. In such a case, TÜV SÜD agrees to notify the client in writing without undue delay about the delay.
- 8.3. Where the impediment to performance pursuant to Section 8.1 or the delay pursuant to Section 8.2 lasts longer than six months beyond the date of initial notification of the client by TÜV SÜD, either party has the right to rescind the agreement for Services. The client may not assert any additional claims based on Sections 8.1 and 8.2, including, but not limited to, claims for damages.
- 8.4. The client has the obligation to observe the export control and embargo law restrictions, as applicable and in effect at the time, when making use of or passing on services provided by TÜV SÜD. The client has the obligation to obtain any permits or licenses that may have to be obtained from the competent authorities, if and where necessary. In case of a violation of export control and embargo restrictions by the client, TÜV SÜD has the right to rescind the agreement for Services.
- 8.5. To the extent requested to do so, the client has the obligation to provide TÜV SÜD, without undue delay, with any and all information on the intended use, final recipient and end use of the Services to be provided by TÜV SÜD, including, without limitation, the obligation to issue or provide end-user certificates (EUC).
- 8.6. The client agrees to indemnify TÜV SÜD to the full extent against any and all claims that may be asserted against TÜV SÜD by authorities or other third parties on the grounds of intentional or negligent violations of export control and embargo restrictions by the client and undertakes to indemnify TÜV SÜD for and against any and all losses sustained, damage suffered and expenses incurred as a result.

9. Secrecy, Copyright, Data Protection

- 9.1. TÜV SÜD shall have the right to copy and file any written documents submitted for perusal which are important for performance of the order.
- 9.2. In as far as expert opinions, any penetration testing and vulnerability assessment reports and the like that are protected by copyright are prepared within the scope of contractual performance, TÜV SÜD shall grant the client a simple, non-transferable right of use, if this is required by the underlying purpose of the contract. This transfer of copyright explicitly shall not include the transfer of any other rights; the customer shall, in particular, not be entitled to change (process) or use expert opinions, audit reports, test results, calculations and the like outside its business.
- 9.3. The proprietary rights to any drawings, technical documentation, software and other intellectual property provided by TÜV SÜD in the course of and in connection with the performance of the Services, shall remain solely with TÜV SÜD.
- 9.4. TÜV SÜD, its employees, and the expert engineers called in by TÜV SÜD shall not, without authorization, disclose or use any confidential information belonging to the client which they become cognizant of during their activities, provided that this clause shall not apply to information that is already known to TÜV SÜD prior to such disclosure; or passes into the public domain otherwise than as a result of a breach of this confidentiality obligation on the part of TÜV SÜD; or was received from a third party who is not under any confidentiality obligations or who did not



Asia Pacific

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9.4. acquire the information in confidence; or was independently conceived or developed by TÜV SÜD without reference to the disclosed confidential information.

10. Indemnity

10.1. The client shall indemnify TÜV SÜD fully against all loss or damages suffered and cost and expenses incurred by TÜV SÜD and all claims by any third parties as a result of provision of the Services (including but not limited to the improper use of the test reports, supply of inaccurate information and/or documents to TÜV SÜD or any claim by third party for infringement or intellectual property rights and/or for discovery of information and/or for delivery of documents or systems components or equipment) unless the same is caused by the act or neglect of TÜV SÜD.

11. Court Attendance

11.1. In the event any of the employees of TÜV SÜD is requested by the client or summoned by the court upon application by the client or any other parties for his attendance in court as an expert witness on the subject of the Services provided, the Client agrees and shall pay TÜV SÜD for such attendance in court based on TÜV SÜD's prevailing rates for court attendance. TÜV SÜD may at its sole discretion revise its rates for court attendance from time to time.

12. Governing Law

12.1. The agreement for the Services shall be governed by and construed in accordance with the laws of Singapore.

12.2. TÜV SÜD and the client agree to submit to the non-exclusive jurisdiction of the Singapore Courts.