



TERMS AND CONDITIONS

for the performance of examining and certification services
of the Certification Body for Persons of the TÜV SÜD Akademie GmbH

Hereinafter the contractual partner of TÜV SÜD Akademie GmbH shall be referred to as "Principal", and TÜV SÜD Akademie GmbH shall be referred to as "Academy". The Principal and the Academy shall be jointly referred to as "Parties".

1 General Remarks, Scope of Application

- 1.1 These Terms & Conditions shall apply in respect of carrying out inspection, examining and certification services by the Academy (hereinafter "Services"). Services for the purpose of these Terms and Conditions shall refer both to services within the meaning of services provided under a contract for services, as per section 611 of the German Civil Code [BGB] and to work done under a contract to produce a work as per section 631 et seq. of the German Civil Code [BGB].
- 1.2 The Academy mostly provides Services for entrepreneurs (section 14 of the German Civil Code - BGB), legal persons under public law or special funds under public law. Accordingly, these Terms and Conditions (hereinafter Terms and Conditions) have been drafted principally for dealings with this group of persons, and shall apply in respect of all business relations between the Academy and such principals. Notwithstanding the above, these Terms and Conditions shall also apply to the business relations between the Academy and consumers (section 13 of the German Civil Code - BGB). However, in such cases the following provisos shall apply to the Terms and Conditions:
 - Contrary to the stipulation at 4.1 the deadlines given by the Academy shall be binding.
 - Section 12.1 shall apply with the proviso that the Registered Office of the Academy shall be agreed as place of jurisdiction, where the Principal's Registered Office, place of residence or place of usual abode is moved outside the remit of the Federal Republic of Germany, or where their Registered Office, place of residence or place of usual abode is unknown at the time a claim is filed.
 - Section 12.2 shall not apply.
 - The Academy does not participate in any alternative dispute resolution procedure before a consumer conciliation body.Additional terms and conditions may apply to services offered via an online store of TÜV SÜD or another TÜV SÜD group undertaking.
- 1.3 These Terms and Conditions shall apply exclusively. Any Terms and Conditions of the Principal, which run contrary to these Terms and Conditions, or which amend them, shall only become a part of the Agreement, where the Academy has explicitly consented to this. This consent requirement shall apply in all cases, including in situations where the Academy is aware of the Principal's Terms and Conditions and provides Services for the Principal without reservation.
- 1.4 Any individual agreements entered into with the Principal (including any ancillary agreements, amendments or changes) shall have precedence over these Terms and Conditions. The content of any such agreements shall be proven by way of a written contract, or, as the case may be, the written confirmation of the Academy, subject to proof to the contrary.
- 1.5 The employees of the Academy or any external invigilators working for the Academy shall act exclusively on behalf and in the name of the Academy during the performance of their

work. Any additional, follow-up and new assignments with any of the invigilators used must be entered into exclusively via the Academy.

2 Performance of the Contract

- 2.1 Unless anything is agreed to the contrary, Services shall be performed in compliance with the applicable regulations therefor as valid at the time the Contract is entered into. The Academy shall be entitled to determine and decide on the method or the type of any exams as the Academy sees fit in its own reasonable discretion, provided that nothing to the contrary was agreed in textual form, and that there are no mandatory provisions that would demand that a particular approach be taken.
- 2.2 The Academy shall be entitled to make use of subcontractors to perform the contract.
- 2.3 The scope of the services rendered by the Academy shall be stipulated in textual form at the time the order is placed. In the event that it transpires that there is a demand for expanding or otherwise amend the services while they are being performed, then any such changes must be additionally agreed in textual form before any such changes take place. Sections 648 and 648a of the German Civil Code - BGB shall remain unaffected.

3 Principal's Obligation to Participate

The Principal shall provide the Academy with the necessary information and materials in good time and free of charge, and shall make available the requisite rooms and technological environments free of charge.

4 Deadlines, Delay, Frustration

- 4.1 Any deadlines given by the Academy shall be non-binding, unless they are explicitly agreed in textual form to be binding.
- 4.2 Where the Principal grants the Academy a reasonable grace period after the service having become due, and where the Academy fails to comply with this grace period, or where it has become impossible for the Academy to perform these services, then the Principal shall be entitled to rescind the Contract and, where the Academy is at fault, to claim damages instead of the services. Sections 281 and 323 of the German Civil Code - BGB shall remain unaffected.

5 Cancellation and Rescheduling of Exam Dates

- 5.1 The Academy shall be entitled to cancel or reschedule agreed dates for examinations or certifications, without having to give reasons, up to seven days before the planned date. The Academy shall also be entitled to cancel up until the day of the exam, if, and to the extent that, it is forced to adapt and amend its examining and/or certification processes, either due to its status as an examinations institute or for other reasons, and where, due to this, it is no longer possible to offer the examination/certification as originally planned. In such cases the Principal shall not be eligible for any claims for damages or reimbursement for any other disbursements.
- 5.2 If a test date is missed due to illness of the tester/test supervisor or other unforeseeable events, there shall be no claim for the test to be carried out. The contractual parties shall mutually agree on alternative dates for the test. If an event is missed and is not replaced, the test fees that the

TERMS AND CONDITIONS

for the performance of examining and certification services
of the Certification Body for Persons of the TÜV SÜD Akademie GmbH



customer has already paid shall be reimbursed to them. Any claims over and above this by the customer and/or persons participating in the test shall be excluded.

6 Withdrawal/rebooking/substitute participant

6.1 Withdrawal

The participant may withdraw from a registration or an order. The Academy must be notified of the withdrawal in text form. If notice of withdrawal is received no later than two weeks before the start of the examination / certification event, the obligation to pay the price is waived, after which the full price will be charged.

The full price will also be charged in the event of a no-show, or if the participant is only present for part of the examination / certification event or leaves the examination / certification event early.

6.2 Rebooking

The participant can rebook for another examination / certification event before the start of the event. The Academy must be notified of the rebooking in text form. Rebooking up to two weeks before the start of the event at the latest is free of charge. In the event of rebooking less than two weeks before the start of the examination / certification event, an additional processing fee of €250 plus VAT will be charged.

6.3 Meeting deadlines

With regard to meeting deadlines, the date of the postmark or the e-mail that was sent to akd.zert@tuvsud.com shall be decisive.

6.4 A substitute participant may be appointed at any time free of charge.

6.5 The statutory right of withdrawal remains unaffected.

7 Liability

7.1 Unless these Terms and Conditions, including the following provisions, stipulates otherwise, the liability of the Academy shall be governed by the relevant statutory provisions.

7.2 Irrespective of the legal basis, the Academy shall be liable on the basis of fault-based liability in cases of intent or gross negligence. In cases of conduct that is merely negligent, and subject to more favourable, statutory provisions (e.g. for due care in one's own affairs), the Academy shall only be liable for (i) losses arising from death, personal injury or damage to health, or (ii) for losses arising from a significant breach of an essential contractual obligation (an obligation, the performance of which is essential in order to properly perform the contract, and the compliance with which the contractual partner can reasonably rely on); in the latter case, however, the Academy's liability is limited to those losses as were typically foreseeable at the time of entering into the contract.

7.3 The limitation on liability as per section 7.2 shall also apply in cases where there an obligation is breached by, or, as the case may be, in favour of persons whose actions the Academy is statutorily responsible for, or in cases where organs of the company, experts or other employees of the Academy are personally liable, if applicable. It shall not apply where the Academy, or, as the case may be, the abovementioned person deceitfully failed to disclose a defect, or in cases of a specifically agreed quality guarantee, or in respect of claims as per the German Product Liability Act (ProdHaftG).

7.4 The Principal must notify the Academy in textual form and without delay in respect of any losses for which the Academy is to be held liable.

7.5 Any claims to damages that are limited pursuant to this section 6 shall become statute barred one year after the statutory period of limitation begins to run, unless they are subject to the limitation provisions stipulated in section 438 (1)(2) or section 634a (1)(2) of the German Civil Code [BGB].

8 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 persist; 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 time the other party is informed, 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. Section 287 sentence 2 of the German Civil Code (liability for coincidence during default of the debtor) shall remain unaffected.

9 Payment Terms

9.1 Unless a fixed rate or some other basis for assessing the fee has been expressly agreed, the fees shall be those as are the valid Academy fees at the date the services are provided.

9.2 The Academy shall be entitled to demand reasonable advances and/or invoice for part-payments in respect of services rendered already. Invoices for part-payment do not need to be described as such. Receipt of an invoice shall not mean that this constitutes the full and final amount the Academy is charging in respect of that job.

9.3 The remuneration due as per section 8.2 or as per a final invoice after the work has been accepted shall fall due for payment immediately upon invoicing, provided that no other agreement has been reached. Section 286 of the German Civil Code - BGB shall remain unaffected by this.

9.4 Where applicable, any travel expenses, travel times, disbursements and overnight expenses shall be additionally invoiced.



TERMS AND CONDITIONS

for the performance of examining and certification services
of the Certification Body for Persons of the TÜV SÜD Akademie GmbH

10. Export control and embargoes

- 10.1 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 customer without undue delay in textual form (as defined in the German Civil Code, BGB) about the fact that services may not be provided (impediment to performance).
- 10.2 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 customer 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 customer without undue delay in textual form about the delay.
- 10.3 Where the impediment to performance pursuant to Section 10.1 or the delay pursuant to Section 10.2 lasts longer than six months beyond the date of initial notification of the customer by TÜV SÜD, either party has the right to rescind the contract (Rücktritt). In case of contracts for the performance of continuing obligations, either party has the right to terminate the contract (Kündigung) instead. The customer may not assert any additional claims based on Sections 10.1 and 10.2, including, but not limited to, claims for damages.
- 10.4 The customer 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 customer 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 customer, TÜV SÜD has the right to rescind the contract. In case of contracts for the performance of continuing obligations, TÜV SÜD has the right to terminate the contract (Kündigung) instead
- 10.5 To the extent requested to do so, the customer 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 what is referred to as end-user certificates (EUC).
- 10.6 The customer 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 customer and undertakes to indemnify TÜV SÜD for and against any and all losses sustained, damage suffered and expenses incurred as a result.

11 Confidentiality, Copyright, Data Protection

- 11.1 The Academy shall be entitled to make copies of written materials which have been made available to the Academy for its information and which are relevant for performing the services, and may keep such copies on file.
- 11.2 Where examination results and certificates are also produced in electronic form in the course of performing the

services, and where such are subject to copyright (hereinafter referred to as "Works"), the Academy grants the Principal a simple, non-transferrable and non-licensable right of use, where this is necessary for the purposes of performing the contract. No further rights are granted or assigned. The Principal may only use the Works in their entirety, only in an unaltered form and only for the contractual purpose. In particular, any publication or reproduction for advertising purposes shall require the prior written consent of the Academy for each individual case.

- 11.3 The Academy shall not disclose or utilise any business or trade secrets of which it becomes aware in the course of performing the job, beyond using it in order to perform that job, unless authorised to do so.
- 11.4 The Academy processes the customer's personal data for the proper performance of the order and otherwise only for permissible purposes. Amongst others, the Academy uses automated data processing machines for this. The Academy complies with all applicable data protection requirements in its data processing.

12 Place of Jurisdiction, Place of Performance, Applicable Law:

- 12.1 In as far as the prerequisites outlined in Section 38 of the Code of Civil Procedure have been fulfilled, party to the contract the registered office of TÜV SÜD (general venue according to Section 17 of the German Code of Civil Procedure, ZPO) is agreed to be the place of jurisdiction for the assertion of claims by either party to the contract.
- 12.2 The place of performance for for any and all obligations arising out of the contract shall be the place of the Registered Office of the Academy.
- 12.3 The contract and any legal relationship arising therefrom shall be governed exclusively by the laws of the Federal Republic of Germany, and excluding the conflict of law provisions of international private law (IPR) and of the UN Convention on the International Sale of Goods (CISG).