

General Terms and Conditions of Business (hereinafter referred to as "T&Cs")

of TÜV SÜD Schweiz AG (hereinafter referred to as "TÜV SÜD")



Schweiz

1 General

- 1.1 According to its articles of association, in particular, TÜV SÜD provides all kinds of services related to project planning issues, in construction and operation, and in the use, monitoring of technical installations and equipment as well as the transport and storage of dangerous goods (hereinafter referred to as "services").
- 1.2 The Client – whether as an employer, ordering party, buyer, etc. – acknowledges the relevant General Terms and Conditions and the Price List valid at the time the Contract is signed. These T&Cs apply exclusively. Deviating, contradictory and/or additional "General Terms and Conditions of Business" of the Client only become part of the Contract insofar as TÜV SÜD has expressly consent to their application in writing.
- 1.3 These T&Cs apply to all legal entities under public and private law, independent and dependent institutions, etc. side agreements, commitments and other declarations of TÜV SÜD employees or experts involved by them are only binding for TÜV SÜD if they are expressly confirmed in writing by TÜV SÜD. This also applies to amendments to this clause.

2 Provision of services

- 2.1 Unless agreed elsewhere in writing and/or required by mandatory provisions under public law, TÜV SÜD provides its services in compliance with the recognised rules of sound engineering practice applicable at the time the Contract with the Client is signed. TÜV SÜD is entitled to determine the method or type of investigation, inspection or testing at its own proper discretion; it accepts responsibility for the correctness of the safety programmes or safety regulations on which the tests are based, unless expressly agreed otherwise in writing elsewhere.
- 2.2 TÜV SÜD is entitled to bring in auxiliary persons for the provision of the service(s).
- 2.3 The scope of services provided by TÜV SÜD is defined with the Client in writing on concluding the Contract. If a need for changes and/or expansions of the defined scope of services occurs during the provision of services, these shall be agreed in writing in advance. In this case, the Client has the right to withdraw from the Contract, if they can no longer be reasonably expected to adhere to the Contract in view of the changes or additions. However, the Client shall pay the originally agreed remuneration or, in the absence of an agreement, shall pay an appropriate remuneration.

3 Deadlines, delay, impossibility

- 3.1 All deadlines, scheduled dates, etc. given by TÜV SÜD are not binding, unless their binding nature is expressly agreed in writing.
- 3.2 Insofar as TÜV SÜD fails to meet a binding order deadline for reasons for which it is responsible, the Client is obliged to remind TÜV SÜD by registered letter and to set a reasonable grace period of at least 15 working days. If TÜV SÜD provides its service within the grace period, the Contract is deemed to be performed and the Client is not entitled to make any further claims. If TÜV SÜD fails to perform within the grace period set, the Client is entitled to withdraw from the Contract with return of the payments made to date. In this case, the Client is not entitled to make any other claims.

4 Warranty

- 4.1 The Client is responsible for damage that arises due to their fundamental breaches of Contract, in particular due to failure to meet, failure to meet punctually or poor performance of their duties to cooperate. TÜV SÜD excludes any liability whatsoever for this and expressly retains the right to claim compensation.
- 4.2 The TÜV SÜD warranty only includes the service agreed with the Client. No guarantee is provided for the correctness and function of the relevant overall installation to with the examined or tested parts belong. In particular, TÜV SÜD does not provide any guarantee for the design, the choice of materials or the construction of the examined installations.
- 4.3 If the Client considers the provision of the service(s) or contractual performance to be poor, they shall inform TÜV SÜD immediately by registered letter. If the Client's objection is true, the duty to provide a guarantee is limited to the improvement or correct performance of the service and other claims of the Client are excluded. If improvement or correct performance of the service is impossible, unreasonable for TÜV SÜD and/or TÜV SÜD refuses the improvement or correct performance of the service, the Client is solely entitled to withdraw from the Contract and to reclaim the remunerations paid to date.

5 Liability

- 5.1 TÜV SÜD is fully liable for damage – regardless of the legal reason – only in the event of make and gross negligence. Liability for slight negligence and for the services of third parties, as well as for auxiliary persons is excluded, insofar as this is permissible.
- 5.2 In the event of negligence, however, TÜV SÜD's obligation to pay compensation for each event of loss or damage is limited to :
1,000,000.00 CHF for damage to property
500,000.00 CHF for financial losses.
- 5.3 In addition, TÜV SÜD is not liable for indirect or consequential losses or damage, such as lost profit, data losses, loss of reputation.
- 5.4 The Client shall notify TÜV SÜD immediately in writing and by registered letter of any damage for which TÜV is supposed to be liable.
- 5.5 Insofar as claims for compensation against TÜV SÜD are excluded or limited, this also applies to the personal liability of the bodies, expert assessors and other employees as well as the vicarious agents of TÜV SÜD.

6 Remuneration and payment terms

- 6.1 The Client undertakes to pay the fee and expenses for services of TÜV SÜD punctually. The expenditures and costs of TÜV SÜD are specified in the individual Agreement or in the fee proposal. If such an Agreement was not concluded, the remuneration shall be based on the prices of TÜV SÜD applicable at the time of the provision of the service(s). All price quotations and hourly rates are net and do not include VAT or possible other charges. Cash expenditures, expenses (e.g. travel costs, accommodation, meals), expenditure for translations and the procurement of special equipment and/or other necessary auxiliary equipment will be charged on to the Client.
- 6.2 Unless expressly agreed in writing elsewhere, the amount is due in Swiss francs and is payable net within 30 days. After that, interest on account of delay of 5% p.a. will be due. If the Client is in arrears, TÜV SÜD can, at its own discretion, make the provision of further services dependent on

the settlement of outstanding invoices, make the service dependent on advance payments by the client or withdraw from the Contract without further ado. TÜV SÜD reserves the right to claim compensation.

- 6.3 TÜV SÜD is entitled to receive reasonable advances on costs and/or to submit partial invoices according to the services already provided. Partial invoices do not have to be named as such. Receipt of an invoice therefore does not mean that the provision of service(s) by TÜV SÜD have been completely billed.
- 6.4 The fee proposals of TÜV SÜD are based on the information and documents available at the time of drafting the proposal. If a lump-sum amount was agreed for the provision of a service and if TÜV SÜD was not informed of all technical and organisational principles required for the submission of the fee proposal or if these changed after the submission of the fee proposal, it expressly reserves the right to increase the remuneration named in the fee proposal. The same applies to the completion or extension of the works due to subsequent requirements of the Client or due to the occurrence of particular circumstances, which were not foreseeable at the time of submitting the fee proposal. All additional services not expressly shown in the scope of services of the fee proposal that are additionally made use of by the Client will be invoiced at the currently valid hourly rates of TÜV SÜD.

7 Force majeure

- 7.1 In case one of the Parties is completely or partially unable to meet their performance obligations, or not in good time, due to an unusual and unforeseeable event on which this Party has no influence and whose consequences could not have been avoided, despite applying due diligence (force majeure), the performance obligations concerned of the Party invoking force majeure shall be affected suspended as long as the event and its consequences persist. During this period, any counter performance obligations of the other Party are also cancelled and they are not entitled to any further claims, in particular claims for compensation. The Party invoking force majeure is obliged to notify the other Party immediately by registered letter about the event, the performance obligations to be suspended and the anticipated period of the suspension of the performance obligations. The same applies accordingly if, during the suspension of the performance obligations and taking into account due diligence, the Party invoking force majeure has to acknowledge that the notified anticipated duration of the suspension changes considerably. If the event lasts longer than six months from the first time the other Party is informed, both Parties are entitled to withdraw from the Contract and to reclaim what has been performed to date.

8 Confidentiality, copyright, data protection

- 8.1 TÜV SÜD may make copies for its files of written documents assigned to TÜV SÜD for examination and which are important for implementation of the order.
- 8.2 Insofar as reports, test results, calculations and similar are created during the course of the implementation of the order, which are subject to copyright protection, TÜV SÜD grants the Client a simple, non-transferable right of use to them, provided this is required according to the contractually required purpose. Other rights are expressly not transferred with the right of use, in particular, the Client is not entitled to change (edit) reports, test results, calculations and similar or to use them for any purpose outside their business. Use of the results of TÜV SÜD's work without written permission obligates the Client to the payment of a Contract penalty of Fr. 50'000.-. TÜV SÜD expressly reserves the right to make further claims for compensation.
- 8.3 The employees and expert assessors of TÜV SÜD will not disclose and utilise business relations and operating conditions that comes to their attention while which they are carrying out their activity, outside the implementation of the order and without authorisation. In any case, TÜV SÜD is entitled to archive copies of the raw data as well as a copy of the final report for at least 10 years in order to comply with the accreditation regulations.
- 8.4 TÜV SÜD also processes and uses personal data exclusively for its own purposes within the TÜV SÜD Group. Data are only forwarded to affiliated companies. The employees assigned to process the data are obliged to uphold the DPA and are relied on to strictly comply with all data protection provisions.
- 8.5 Without deviating written notification of the Client, TÜV SÜD is entitled to list the Client as a reference in fee proposals and in advertising (particularly on its online portals).

9 Legal venue, place of performance, applicable law

- 9.1 The legal venue for claims made by both contractual partners is the place in which TÜV SÜD has its registered offices, i.e. Zurich.
- 9.2 The place of performance for all obligations arising out of the Contract is the place in which TÜV SÜD has its registered offices.
- 9.3 The contractual relationship and all legal relationships arising out of it are solely subject to the Laws of the Swiss Confederation with exclusion of International Private Law (IPR) and UN Convention on Contracts for the International Sale of Goods (CISG).

10 Miscellaneous

- 10.1 If parts of these T&Cs are invalid or become legally invalid, the remaining T&Cs continue to apply. The Parties to the Contract shall fill possible loopholes with provisions that best achieve the economic and legal purpose of the invalid provisions. These T&Cs exist in the German version and in translations into various languages. In case of contradictions, the German version is definitive.