

TERMS AND CONDITIONS FOR PROVISION OF SERVICES

1. General

- 1.1 These terms and conditions, together with the written proposal issued by TUV SUD Limited t/a TÜV SÜD National Engineering Laboratory (hereinafter "TUV SUD"), constitute the sole provisions under which TUV SUD offers to provide the services specified in its proposal (hereinafter "the Services") to the customer (the "Contract").
- 1.2 In the event of conflict between the provisions of TUV SUD's proposal and these terms and conditions, TUV SUD's proposal shall prevail.
- 1.3 No terms and conditions proposed by the customer shall apply to the contract for the performance of the Services unless expressly adopted by TUV SUD in writing.
- 1.4 The provisions of the contract between TUV SUD and the customer may not be varied without the written agreement of both parties.

2. Provision of Services and Deliverables

- 2.1 TUV SUD shall perform the Services and provide reports, analysis and other data (hereinafter "Deliverables") in accordance with TUV SUD's proposal.
- 2.2 In performing the Services, TUV SUD shall exercise the level of skill, care and diligence reasonably to be expected of a suitably qualified person experienced in carrying out services of a similar type and complexity as the Services.
- 2.3 Unless otherwise stipulated, any timescales for performing the Services specified in the proposal shall not be of the essence.
- 2.4 Any Deliverables provided by TUV SUD shall be deemed to have been accepted if not rejected by the customer within 14 days.
- 2.5 Ownership of Deliverables shall rest exclusively with the customer.

3. Customer Responsibilities

- 3.1 In the event that any part of the Services requires to be performed on the customer's premises, the customer shall provide, free of charge, suitable office accommodation and ancillary facilities reasonably required to enable TUV SUD to perform the Services.
- 3.2 The customer shall provide all information and data reasonably required to enable TUV SUD to perform the Services and shall ensure that all information, data and drawings are complete, accurate and not misleading in any material respect.
- 3.3 The customer shall ensure its personnel provide such reasonable assistance as TUV SUD requires to enable it to perform the Services.
- 3.4 In the event of delay in the customer fulfilling its obligations under this clause, TUV SUD shall be entitled to a commensurate extension in any timescale specified in its proposal for performance of the Services and provision of any Deliverables.
- 3.5 Should any information, data or drawings provided by the customer be found to be materially incomplete or inaccurate, TUV SUD shall be entitled to an equitable adjustment of its fees as compensation for any additional work occasioned thereby.

4. Fees and Payment

- 4.1 TUV SUD's fees for performing the Services and providing any Deliverables shall be charged in accordance with TUV SUD's proposal and, in addition, the customer shall reimburse TUV SUD for all travel, subsistence and other expenses reasonably incurred in performing any part of the Services at the customer's premises as set out in TUV SUD's proposal.
- 4.2 Unless otherwise stated in TUV SUD's proposal, all charges (including costs recoverable under this clause) shall be deemed to be exclusive of VAT (or other sales related tax) which shall be payable in addition.
- 4.3 Invoices for payment of fees and expenses shall be paid within 30 days of the date of issue. In the event of non-payment of any invoice properly due, TUV SUD shall be entitled to charge interest on any amount outstanding at a rate 4% above the base rate of the Bank of England from time to time.

5. Suspension and Termination

- 5.1 In the event of any invoice becoming overdue for payment, TUV SUD may, subject to seven days' prior notice in writing, suspend further performance of the Services until payment is made in full.
- 5.2 The contract may be terminated by either party on written notice with immediate effect if the other commits a breach of any material term of the contract which is not remedied within 14 days of a written request to remedy the same.
- 5.3 The contract may be terminated by either party by written notice with immediate effect in the event that the other party is unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator appointed, or ceases for any reason to carry on business.
- 5.4 In the event either party is prevented from fulfilling its obligations on grounds set out in Clause 6 (Force Majeure) for a continuous period exceeding three months, either party may terminate the contract with immediate effect.
- 5.5 In the event of termination in accordance with this clause, subject to any remedies available to the customer for breach of contract, TUV SUD shall be entitled to payment on a fair and reasonable basis for such part of the Services it has completed up to the date of termination.

6. Force Majeure

- 6.1 Should either party be prevented from fulfilling its obligations under the contract due to circumstances beyond its reasonable control, it shall not be liable to the other for the duration and extent to which it is prevented from fulfilling its obligations under the contract.
- 6.2 In the event that either party intends to invoke the provisions of sub-clause 6.1, it shall notify the other party in writing without undue delay.

7. Non-Solicitation

- 7.1 Neither party may, during the performance of the Services, and for a period of six months following completion, solicit for the purposes of offering employment to any employees of the other party who have been involved in performing or receiving the Services.
- 7.2 Nothing in this clause shall preclude either party from employing any person who applies for an employment vacancy in response to a public advertisement or routine recruitment exercise.

8. Miscellaneous

- 8.1 Neither party may transfer, charge or otherwise seek to deal in any of its rights or obligations under the contract without the written consent of the other party, which consent may not be unreasonably withheld.
- 8.2 No delay in enforcing any of the terms or conditions of the contract shall affect or restrict any rights and powers arising under the contract.
- 8.3 No waiver of any term or condition of the contract shall be effective unless agreed in writing by the parties.
- 8.4 Any provisions of the contract which expressly or by implication are intended to survive its termination shall continue to bind both parties notwithstanding such termination.
- 8.5 If any provision of the contract is held to be invalid, whether in whole or in part, such provision or part-provision shall be deemed not to form part of the contract and the enforceability of the remainder of the contract shall not be affected.

9. Limitation of Liability

- 9.1 Excluding any claims in respect of which TUV SUD may not lawfully exclude or limit its liability, the cumulative liability of TUV SUD to the customer under or in connection with the contract shall not exceed (i) the fees payable under the contract, or (ii) £10,000, whichever shall be the greater.
- 9.2 Neither party shall be liable to the other for any consequential or indirect loss arising out of breach of contract.
- 9.3 Any legal proceedings arising from the contract between the parties must be brought within 12 months from the date when the party bringing the proceedings first becomes aware or ought reasonably to have become aware of the facts giving rise to the liability or alleged liability.

10. Export Control and Embargo Regulations

- 10.1 TUV SUD is not obliged to provide the Services to the extent that and for as long as such provision of the Services would result in violations of export control and embargo restrictions. In such circumstances, TUV SUD agrees to notify the Customer, in writing, that Services may not be provided.
- 10.2 If TUV SUD is unable to provide the Services on time due to the need to obtain permits, licenses, or other official authorisations imposed under export control and embargo regulations, any binding delivery or completion deadlines contained within the Contract shall be reasonably extended by the duration of the resulting delay. In such circumstances, TUV SUD shall notify the customer in writing of the delay.
- 10.3 In the event that the performance of the Services ceases under clause 10.1, or the delay referred to in Clause 10.2 continues for more than six months from the date TUV SUD initially notifies the Customer, either party may terminate the contract. The Customer shall not be entitled to assert any further claims arising from Clauses 10.1 or 10.2, including, but not limited to, claims for damages.
- 10.4 The Customer is responsible for compliance with all applicable export control and embargo regulations in effect at the time of using or transferring any of the Services or Deliverables provided by TUV SUD. The Customer is solely responsible for obtaining any required permits or licenses required from the relevant authorities, where necessary. If the Customer violates any export control or embargo regulations, TUV SUD reserves the right to terminate the contract with immediate effect.
- 10.5 Upon request, the Customer shall provide TUV SUD with all necessary information regarding the intended use, final recipient, and end use of the Services or Deliverables provided by TUV SUD. This includes, but is not limited to, the obligation to issue or supply end-user certificates (EUC) as required.
- 10.6 The Customer agrees to indemnify TUV SUD against any and all claims that may be brought against TUV SUD 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 TUV SUD for and against any and all losses sustained, damage, suffered and expenses incurred as a result.

11. Governing Law

- 11.1 These terms and conditions, and any contract incorporating them, are subject to English Law.
- 11.2 The courts of England & Wales shall have non-exclusive jurisdiction to determine any dispute arising out of the contract.