



TÜV SÜD Canada Inc. Standard Terms and Conditions

1. GENERAL.

- 1.1 **Services Provided.** TÜV SÜD Canada Inc, a wholly owned subsidiary of TÜV SÜD America Inc. (“TÜV SÜD”), is an independent testing and conformity assessment company, which evaluates and tests products in accordance with the applicable standards / regulations and conducts management system audits in accordance with standards, regulations and other requirements. TÜV SÜD issues product and management system certificates upon the satisfactory completion of required testing / evaluation / auditing of representative samples.
- 1.2 **Code of Conduct.** As a global provider of testing, inspection and certification services (the “Services”), TÜV SÜD believes that independence, impartiality and integrity are a critical part of our mission and core values as set forth in our Code of Conduct, which is binding on all our employees and subcontractors. Customer agrees to comply with the requirements set forth in TÜV SÜD’s Code of Conduct located at <https://www.tuvsud.com/en/compliance/code-of-conduct>, incorporated herein by this reference and may be updated from time to time.
- 1.3 **Applicability/Order of Precedence.** These Standard Terms and Conditions govern the sale and performance of Services provided by TÜV SÜD. These Standard Terms and Conditions, TÜV SÜD’s quote, and any purchase order or acknowledgement issued by TÜV SÜD form the parties’ final agreement (the “Agreement”). In the event of any ambiguity or conflict between those documents, precedence shall apply in the order listed in the previous sentence. TÜV SÜD’s proposal, offer and acceptance is conditioned upon Customer’s acceptance of this Agreement. Any additional or conflicting terms in Customer’s specifications, purchase order or any other written or oral communication are not binding on TÜV SÜD unless separately signed by TÜV SÜD. TÜV SÜD’s failure to object to Customer’s additional or conflicting terms shall not operate as a waiver of the terms contained in this Agreement. In the event of a conflict between any, Group Testing and Certification Regulation | TÜV SÜD (tuvsud.com) Audit Agreement and the Agreement, the Testing & Certification Regulations and Audit Agreement shall prevail solely with respect to such conflict, unless expressly stated otherwise in a written agreement signed and delivered by TÜV SÜD.

2. QUOTATIONS; ORDERS; ACCEPTANCE OF ORDERS.

- 2.1 **Quotations; Orders.** Customers shall submit to TÜV SÜD all requests for Services in writing. In response to a request for Services, TÜV SÜD may issue to Customer a written quotation for Services to be rendered (a “Quotation”). To order Services from TÜV SÜD which are described in a Quotation, Customer shall submit a written order (an “Order”). The Agreement shall apply to all Orders placed with TÜV SÜD.
- 2.2 **Acceptance of Orders.** An Order shall be deemed accepted and binding on TÜV SÜD without further action if: (i) it is received in response to a Quotation within 90 days of the date of the Quotation and (ii) it contains no alteration of any term or condition stated in the Quotation. Notwithstanding any acceptance (deemed or otherwise) of an Order, TÜV SÜD may alter the terms and conditions of any Order at any time if Customer’s creditworthiness fails to meet TÜV SÜD’s requirements. Oral or written statements made by TÜV SÜD or its representatives or agents which conflict with or add terms or conditions to an Order shall not constitute a part of an Order unless confirmed in writing by TÜV SÜD. An Order which does not meet the above requirements shall only be accepted and binding on TÜV SÜD if TÜV SÜD issues a new written Quotation stating the terms and conditions of the Order and Customer delivers an Order meeting the above requirements.
- 2.3 **Order Acceptance Without Quotation.** Customer may submit an Order without receiving a Quotation. TÜV SÜD has the right to accept or reject such an Order in whole or in part, and no such Order shall be deemed accepted and binding on TÜV SÜD unless TÜV SÜD expressly confirms its acceptance in writing. Any such Order so accepted by TÜV SÜD shall be subject to the Agreement notwithstanding anything to the contrary in any such Order.

2.4 **Customer Affiliates.** Customer Affiliates may purchase Services under the Agreement upon entering an Order with TÜV SÜD pursuant to Section 2 of the Agreement. In such event, (i) the Customer Affiliate entering into each such Order will, for the purposes of such Order, be considered the “Customer” as that term is used in this Agreement, and (ii) the Order will incorporate all these Standard Terms and Conditions and be deemed to be a two-party agreement between TÜV SÜD on the one hand, and the applicable Customer Affiliate on the other hand. Customer will cause its Affiliates to comply with its obligations under this Agreement. “Affiliate(s)” are a party’s wholly-owned subsidiaries or a joint venture, partnership or corporation that directly or indirectly controls, is controlled by or is under common control of or with said party or the party’s wholly-owned subsidiary. The word “control” as used in this definition will mean ownership of, or the right to acquire, not less than fifty percent (50%) of the stock of said corporation, the right to vote not less than fifty percent (50%) of the stock of said corporation, or not less than fifty percent (50%) ownership interest in a partnership or joint venture or corporation. Should TÜV SÜD question whether an entity is a Customer Affiliate, Customer will promptly confirm its status to TÜV SÜD.

3. FEES AND PAYMENTS.

3.1 **Fees.** Unless otherwise agreed in writing between the parties, fees charged by TÜV SÜD shall be calculated pursuant to the TÜV SÜD Quotation and any applicable price schedules of TÜV SÜD in effect at the time of acceptance of the Order. A schedule of hourly rates charged by TÜV SÜD shall be made available to Customer upon request. Required work done beyond the Quotation, will be charged at an hourly rate.

3.2 **Credit Approval.** All orders are subject to credit approval by TÜV SÜD. TÜV SÜD may modify, suspend or withdraw the credit amount or payment terms at any time. If there is doubt as to Customer’s financial condition, TÜV SÜD may withhold performance of Services, require cash payments, or advance payments, or require other satisfactory financial security before performance of Services. TÜV SÜD may change its fees without notice.

3.3 **Payment; Past Due Balance.** All invoices shall be due net 30 days from the invoice date. Customer agrees that a monthly administrative and finance charge of 1.5% of the outstanding account balance, but not in excess of the maximum allowed by law, will be payable by Customer for any account over 30 days past due. Customer also agrees to pay TÜV SÜD’s costs of collection, including attorneys’ fees, incurred in collecting any past due amounts. TÜV SÜD reserves the right to suspend performance of Services until payment is received in full for Services rendered. Such suspension of Services may include, without limitation, the refusal to issue a test report or certification to which Customer would otherwise be entitled. Any questions or concerns regarding an invoice must be submitted to TÜV SÜD in writing within 14 days of receipt of the invoice. Failure by Customer to submit any questions or concerns within that 14-day period shall constitute an agreement by Customer to pay the invoice in full.

3.4 **Disputed Invoice.** If Customer would otherwise be entitled. Any questions/disputes all or concerns regarding any portion of an invoice, Customer must be submitted/deliver written notice to TÜV SÜD in writing within 14 days of receipt of the invoice. Failure by Customer to submit any questions or concerns within that 14-day period shall constitute an agreement by Customer to pay the invoice in full. If Customer disputes only a portion of the invoice, Customer must pay the undisputed portion in accordance with this section. Upon resolution of the dispute in favor of TÜV SÜD, Customer must pay the undisputed portion or the remainder of the invoice, plus any accrued interest on the late payment.

3.5 **Cancellations / Postponements:** In the event that the customer cancels or postpones activities on less than 30 days’ prior notice to TÜV SÜD, Customer shall pay TÜV SÜD a fee, with respect to the activities not done as originally scheduled, equal to 25% of the fees that would have been payable for those activities if they had been performed. This fee is in addition to Customer’s obligation to pay TÜV SÜD for the services that are performed.

3.6 **Suspension/Termination Right.** TÜV SÜD may suspend Services if an undisputed invoice is more than 15 days past due. TÜV SÜD may terminate this Agreement if an undisputed invoice is more than 30 days past due. Unless otherwise prohibited by law, TÜV SÜD may also terminate this Agreement immediately in the event of a material adverse change in Customer’s financial condition, including, but not limited to bankruptcy, insolvency, or liquidation.

4. TAXATION.

The fees for TÜV SÜD’s Services do not include taxes, excises, fees, duties, or other government charges related to the Services. Customer shall be responsible for paying any and all taxes which apply now or in the future to these Services or to Customer’s payments, other than taxes on TÜV SÜD’s net income. In the event that TÜV SÜD may be required to collect or pay taxes for which Customer is responsible, TÜV SÜD may increase its charges to Customer by an equal amount.

5. **FORCE MAJEURE.**

If either party is unable to perform or suffers delay in performance due to any cause beyond its reasonable control, (regardless of whether the cause was foreseeable), including without limitation, acts of God, natural catastrophes, acts or omissions of a government or its agencies or departments, pandemics, labor strikes, lockouts or other disturbances, wars, riots, cyber-attacks, terrorist attacks or difficulties in procuring labor, energy shortages, shortage of suitable parts or materials, computer malfunctions, transportation problems, or Customer's failure to fulfill its obligations or delays in delivery by TÜV SÜD's vendors, the time for performance shall be extended by a period equal to the length of time it takes to overcome the effect of the event. A party shall immediately notify the other party after becoming aware of any such event. If there are force majeure delays exceeding 60 days in the aggregate, TÜV SÜD may terminate the Agreement. For the avoidance of doubt, failure to pay shall not constitute a force majeure delay.

6. **EXPORT CONTROL AND EMBARGO RESTRICTION.**

- 6.1 TÜV SÜD does not have the obligation to provide Services 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 promptly notify the Customer in writing that such Services may not be provided.
- 6.2 In the event that TÜV SÜD is prevented from timely providing its Services due to a delay in obtaining permits, licenses or other official procedures imposed by restrictions under export control and embargo law, the delivery and completion deadlines agreed to by TÜV SÜD and the Customer shall be extended by the duration of time caused by such delay. In such a case, TÜV SÜD agrees to promptly notify the Customer in writing.
- 6.3 Where the delays due to Section 6.1 or 6.2 lasts longer than six months beyond the date of initial notification of the Customer by TÜV SÜD, either party has the right to terminate the Agreement. The Customer may not assert any additional claims based on Sections 6.1 and 6.2, including, but not limited to, claims for damages.
- 6.4 The Customer has the obligation to observe the export control and embargo law restrictions, as applicable and in effect at the time, and to obtain any permits or licenses that may have to be obtained. In case of a violation of export control and embargo restrictions by the Customer, TÜV SÜD has the right to terminate the Agreement.
- 6.5 To the extent requested to do so, the Customer has the obligation to promptly provide TÜV SÜD with any and all information or certifications 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 an end-user certificates (EUC).
- 6.6 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 agrees to indemnify TÜV SÜD for and against any and all losses sustained, damage suffered, and expenses incurred as a result.

7. **LIMITED WARRANTY.**

- 7.1 **Limited Warranty.** TÜV SÜD warrants that sServices performed by it shall be performed in accordance with the requirements of the applicable accepted and binding Order and in accordance with the relevant testing and audit standards and procedures referenced in paragraph 1 above. In the event that the services performed by TÜV SÜD do not comply with this warranty, Customer shall notify TÜV SÜD in writing of the noncompliance within 30 days of TÜV SÜD's completion of such Services, and TÜV SÜD shall re-perform the non-conforming Services. Products to be returned to TÜV SÜD for such re-testing shall be returned to TÜV SÜD at Customer's expense. The failure of Customer to so notify TÜV SÜD of a claim that services did not comply with this warranty within the foregoing period shall constitute an irrevocable waiver of that claim. Customer understands and agrees that TÜV SÜD's warranty extends only to the specific products or parts of a facility which were tested or audited by TÜV SÜD and only to the extent caused by testing or audit. TÜV SÜD shall not be liable for any viral infection or other damage caused to software of Customer. Furthermore, Customer acknowledges that in some cases, TÜV SÜD's Services can result in damage to, or the destruction during testing of, the equipment and other materials supplied to TÜV SÜD. Accordingly, Customer agrees that TÜV SÜD shall not be responsible for any such damage or destruction to the extent not caused by TÜV SÜD's negligence.
- 7.2 **DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH AND LIMITED ABOVE, TÜV SÜD MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE SERVICES PROVIDED HEREUNDER. TÜV SÜD SPECIFICALLY DISCLAIMS ANY WARRANTIES WITH REGARD TO THE GENERAL SAFETY, MERCHANTABILITY, NON-INFRINGEMENT OR EFFECTIVENESS OF PRODUCTS OR FACILITIES OR WITH REGARD TO THE MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OF

TÜV SÜD'S SERVICES THEMSELVES. THE OBLIGATIONS OF TÜV SÜD UNDER THIS LIMITED WARRANTY ARE CUSTOMER'S EXCLUSIVE REMEDY AND TÜV SÜD'S SOLE LIABILITY FOR ANY BREACH OF WARRANTY.

8. LIMITATION OF LIABILITY; INDEMNIFICATION.

8.1 **Damages.** TÜV SÜD SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES IN CONNECTION WITH OR ARISING FROM ANY ACTION OR OMISSION OF TÜV SÜD RELATING IN ANY WAY TO THE SERVICES PROVIDED OR TO THE AGREEMENT OR AN ORDER, EVEN IF TÜV SÜD SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA OR INFORMATION OF ANY KIND, LOST PROFITS OR FAILURE TO REALIZE EXPECTED SAVING AND REGARDLESS OF WHETHER ANY CLAIM FOR SUCH RECOVERY IS BASED ON THEORIES OF CONTRACT, NEGLIGENCE OR TORT (INCLUDING STRICT LIABILITY). TÜV SÜD'S ENTIRE LIABILITY, FOR ANY CAUSE RELATED TO OR ARISING OUT OF THE AGREEMENT, REGARDLESS OF THE FORM OR NATURE OF THE ACTION, SHALL IN NO EVENT EXCEED THE FEES PAID BY CUSTOMER UNDER THE APPLICABLE ORDER. No claim may be asserted by either party against the other party with respect to any event, act or omission for which a claim accrued more than two (2) years prior to such claim being asserted.

8.2 **Indemnification.** Customer assumes and shall defend, indemnify and hold TÜV SÜD harmless from all responsibility to Customer and third parties for personal injury and property damage, relating in any way to the services provided by TÜV SÜD. Customer shall defend at its sole expense any action brought against TÜV SÜD as a result of any personal injury or property damage. Customer further agrees to indemnify TÜV SÜD for all costs (including reasonable attorneys' fees) incurred by TÜV SÜD in defending any such claims or in establishing its right to indemnification. TÜV SÜD shall promptly notify Customer of any such claim or proceeding. However, delay in notifying Customer will not relieve Customer from any obligation except to the extent the delay harmed Customer. Customer may assume the defense of such claim or proceeding, and TÜV SÜD shall provide reasonable cooperation with Customer, at Customer's expense, in the investigation of any such claim or proceeding. Customer shall not settle or otherwise consent to a judgment that diminishes TÜV SÜD's rights or interests without TÜV SÜD's express written consent. If Customer fails to assume such defense, TÜV SÜD may defend or settle such claim at Customer's expense.

9. CONFIDENTIALITY.

9.1 Subject to the exceptions described below in Section 9.2, "Confidential Information" will mean all of the information (whether in writing, orally, tangible or intangible, or by another means) that is disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party") under an Order, which information is either in writing and marked "confidential", "restricted", or "proprietary", or if disclosed orally or through access to facilities, is identified as being confidential at the time of disclosure, or from all the relevant circumstances should reasonably be assumed to be confidential and proprietary whether or not such information is marked or identified as "confidential", "restricted" or "proprietary" at the time of disclosure. For purposes of clarity, any Report (as defined in Section 10) issued in connection with this Agreement shall be considered Confidential Information.

9.2 Each party hereby acknowledges that all of the other party's Confidential Information is valuable, unique, and constitutes trade secrets and proprietary information and, during the term hereof upon the termination of the Agreement, each party's knowledge of the other party's Confidential Information will enable it (or any other individual, company, or person with which it is associated in any manner) to compete with the other party in a manner likely to cause irreparable harm upon the disclosure of such Confidential Information. Accordingly, each party hereby agrees that it shall not disclose, directly or indirectly, any of the Confidential Information to any individual, firm, company, or other entity and shall not use any Confidential Information in any manner whatsoever except as permitted under the Agreement, unless such Confidential Information (a) is now in the public domain or subsequently enters the public domain through no action or fault of the Receiving Party; (b) is known by or available to the Receiving Party from its own independent sources prior to its receipt thereof under an Order; (c) the Receiving Party receives from any third party having a legal right to transmit such information without any obligation to the Disclosing Party to keep such information confidential; or (d) is independently developed by the Receiving Party's employees, agents, or contractors. Additionally, these exceptions will not apply to Personal Information (as defined in Section 9.3) unless the Receiving Party possesses and has the right to disclose any such Personal Information independently of its relationship with Disclosing Party and its Affiliates and Representatives.

9.3 The Receiving Party agrees to treat all of the Disclosing Party's Confidential Information with the same degree of care to avoid disclosure to any third party as the Receiving Party uses with respect to its own information of like importance, which is to be kept secret, and in any event no less than reasonable care. The Receiving Party is permitted to disclose

Confidential Information only to those of its and its affiliates respective employees, officers, directors, shareholders, advisors, and agents, including without limitation consultants, attorneys, and accountants (collectively "Representatives"), whom the Receiving Party, in its reasonable discretion, deems need to know such information in connection with the relationship of the parties and/or TÜV SÜD's performance of Services for Customer; and provided, further, that the Receiving Party may not disclose Confidential Information that is or includes personally identifiable information as defined by applicable privacy law ("Personal Information") to Representatives other than employees without the Disclosing Party's written consent. Prior to disclosing Confidential Information to any Representative, the Receiving Party shall advise Representative of the confidential nature of the Confidential Information and shall ensure that such Representative is bound by the confidentiality obligations contained herein or such other confidentiality obligations substantially similar to those herein. Nevertheless, Customer agrees that TÜV SÜD may disclose Confidential Information to accreditation and regulatory authorities in connection with routine regulatory examinations that do not reference or are not targeted at the Customer or any Confidential Information of the Customer.

- 9.4 Furthermore, in the event that the Receiving Party is ordered by a court or other governmental entity having jurisdiction to disclose any of the Disclosing Party's Confidential Information, the Receiving Party shall be permitted to so disclose that Confidential Information. If permitted, the Receiving Party shall give the Disclosing Party prompt written notice of the order (unless prohibited by applicable process or order) so as to allow the Disclosing Party to seek a protective order or similar relief. This obligation as to confidentiality and non-use shall survive the termination of this Agreement for a period of two years.

This Agreement being signed between Customer and TÜV SÜD shall override, apply, and supersede any and all other agreements where TÜV SÜD inspectors are being asked or required to sign NDA/Confidentiality/Hold Harmless/Indemnification Customer site specific agreements to be able to enter Customer site location.

- 9.5 Unless otherwise mutually agreed in writing, the Receiving Party's obligations under this paragraph with respect to each item of Confidential Information shall terminate two (2) years after the date of the receipt of that item by the Receiving Party. Notwithstanding the foregoing, the Receiving Party's obligation of non-disclosure and nonuse of Personal Information will continue indefinitely.
- 9.6 At the Disclosing Party's written request, the Receiving Party and its Representatives shall promptly return to the Disclosing Party or destroy: (i) all written Confidential Information and any other written, recorded or machine readable material containing, reflecting or based upon the Confidential Information and (ii) all written materials prepared by the Receiving Party or its Representatives based on the Confidential Information. Notwithstanding the foregoing, the Receiving Party may (a) retain in its legal files one copy of the Confidential Information for archival purposes; (b) retain copies stored in automated computer backup systems; or (c) retain one copy to comply with the requirement of an accreditation or regulatory authority. In addition, routinely created electronic backup copies that contain Confidential Information are excluded from obligation to return/delete such information.
- 9.7 Any Confidential Information that contains personal data shall be deleted and a written certification of disposal provided to the Disclosing Party within thirty (30) calendar days of Disclosing Party's written request unless such personal data must be retained in accordance with applicable law.

10. INTELLECTUAL PROPERTY RIGHTS.

Intellectual property rights embodied in Confidential Information shall at all times remain the property of the Disclosing Party. Subject to the foregoing, all ownership rights of any kind or nature, including all intellectual property and other proprietary rights, resulting from TÜV SÜD's performance of Services to Customer per this Agreement shall belong solely to TÜV SÜD in and to the following: (a) any reports, data, opinions, certificates, drawings, information, models or any other documents produced or otherwise resulting from its engagement by Customer (collectively, the "Reports"), and (b) any information, know-how, data, results, and inventions, and any associated intellectual property that is made, discovered, created, invented or generated by TÜV SÜD in any activities or work on behalf of Customer. Subject to Customer's payment in full of all fees due and payable to TÜV SÜD hereunder, TÜV SÜD hereby grants Customer a non-exclusive, revocable, perpetual license to use the unaltered Reports in connection with its internal business. The Customer may use the Reports only in complete and otherwise unchanged form and only for the contractual purpose.

11. RELATIONSHIP OF THE PARTIES.

TÜV SÜD is an independent contractor for the provision of Services, not an agent of the Customer. Customer has no authority to act on behalf of TÜV SÜD or to bind TÜV SÜD with respect to any promise or representation unless specifically authorized in writing to do so by TÜV SÜD.

12. ASSIGNMENT. Customer may not, without TÜV SÜD's prior written consent, assign or transfer any Order, or any of its rights or obligations under these Standard Terms and Conditions or any Order, to any other person. TÜV SÜD may delegate its obligations to its affiliates, agents, suppliers, and contractors, and TÜV SÜD may disclose to any such persons any information required by them to perform the duties so delegated to them, but such delegation shall not relieve TÜV SÜD of its obligations under these Standard Terms and Conditions or the applicable Order.

13. NOTICES.

Any notice, request or demand required or desired to be given from one party to the other must be in writing and shall be effective upon receipt if delivered personally, seven days after mailing if sent by pre-paid registered or certified mail, and on the next business day if sent by reputable overnight courier. Notices shall be sent to the party's then-current principal mailing address as set forth on the Order, or as a party may otherwise specify in a notice to the other party.

14. GOVERNING LAW AND CONSENT TO JURISDICTION.

14.1 Governing Law. This Agreement and any Order and all rights and duties of TÜV SÜD and Customer arising thereunder shall be governed by and construed in accordance with the laws of province of Ottawa, Canada without reference to its conflict-of-law rules.

14.2 Jurisdiction. Customer hereby irrevocably submits to the nonexclusive jurisdiction of the courts of Canada for any action or proceeding arising out of or relating to the provision by TÜV SÜD of services to Customer. Customer hereby irrevocably agrees that all claims with respect to such action or proceeding may be heard and determined in such court or courts, subject to paragraph 14 below. The foregoing shall not affect the right of TÜV SÜD to bring any action or proceeding against Customer or its property or assets in the courts of any other jurisdiction.

15. DISPUTE RESOLUTION.

15.1 Informal Discussion. In the event of any dispute or disagreement between Customer and TÜV SÜD with respect to the interpretation of any provision of any Order or this Agreement, the performance of TÜV SÜD or Customer under any Order, or any other matter related to any Order, upon the written request of either party, authorized representatives of Customer and TÜV SÜD will meet for the purpose of resolving such dispute or disagreement. Those representatives will discuss the problem and negotiate in good faith without the necessity of any formal proceedings related thereto.

15.2 Arbitration. If a dispute or disagreement described in paragraph 14.1 above is not resolved as described in that paragraph, that dispute or disagreement shall be finally settled by binding arbitration held before a single arbitrator and according to the commercial Arbitration Rules of the American Arbitration Association ("AAA"), by which TÜV SÜD and Customer agree to be bound. The sole venue for any arbitration shall be the City of Boston in the Commonwealth of Massachusetts, unless the parties otherwise agree in writing. The Customer and TÜV SÜD shall jointly select the arbitrator, and failing agreement the arbitrator shall be selected in accordance with the AAA Rules. The arbitrator shall have no authority to add to, change, or disregard any lawful terms of any Order or this Agreement, nor to award punitive damages. The decision of the arbitrator shall be final and binding, and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy. Arbitration shall be the exclusive final remedy for any dispute between the parties; provided, however, that this provision shall not prevent either party from seeking injunctive relief for misuse or misappropriation of its confidential or proprietary information.

15.3 For management system auditing services the following shall apply

Informal Discussion. In the event of any dispute or disagreement between Customer and TÜV SÜD with respect to the interpretation of any provision of this Agreement, the performance of TÜV SÜD or Customer under this Agreement, TÜV SÜD's determinations in its audit, or any other matter related to these Standard Terms and Conditions, upon the written request of either party, authorized representatives of Customer and TÜV SÜD will meet for the purpose of resolving such dispute or disagreement. Those representatives will discuss the problem and negotiate in good faith without the necessity of any formal proceedings related thereto.

Submission to Advisory Committee. If a dispute or disagreement described above is not resolved as described in that section, that dispute or disagreement shall be submitted to the Advisory Committee (which is comprised of representatives of TÜV SÜD's customers, other industry representatives, and representatives of TÜV SÜD itself) for its consideration before either party commences any litigation relating to that dispute. Customer agrees to comply with any request of the chairman of the Advisory Committee for attendance of Customer's representatives at the relevant meeting(s) of the Advisory Committee.

Further Steps Following Submission to Advisory Committee. In the event that a dispute not resolved through the

steps described above, the parties shall then be free to pursue resolving the dispute through litigation in a court of competent jurisdiction; provided, however, that with respect to disputes over certification decisions for certificates accredited by the Standards Council of Canada (the "SCC"), if the Advisory Committee confirms a rejection of certification, Customer's only further appeal shall be to the SCC and not to court. To pursue such an appeal to the SCC, Customer shall comply with the SCC's applicable rules and shall provide to the SCC a copy of all documentation relating to the rejection, including all correspondence.

Pre-Payment Requirements. Notwithstanding anything to the contrary in these Standard Terms and Conditions, for the initial project for certification services or management system auditing services, Customer agrees to pre-pay an amount of fifteen thousand U.S. Dollars (\$15,000 USD) prior to commencement of such services, which shall be applied to the total amount due for the services. In the event that the total amount for such services are less than \$15,000, then Customer agrees to pay the total amount due in advance.

16. TERM; TERMINATION.

16.1 The term of this Agreement shall commence on the last signature date set forth below and continue until terminated by either party with or without cause upon ninety (90) days prior written notice to the other party.

16.2 In case of termination of this Agreement or any Order hereunder, however occurring, TÜV SÜD is entitled to demand and Customer shall be obligated to pay a proportion of the contractual remuneration equal to the proportion (if any) of the Services/work actually carried out up through and including the date of termination.

17. MISCELLANEOUS.

17.1 Non-Solicitation. Customer covenants and agrees that for a period of twelve (12) months following the rendering of TÜV SÜD's Services under the Agreement, Customer will not, directly or indirectly, by themselves or as a partner or in any relationship with any other person or entity, recruit from TÜV SÜD, or hire, any of TÜV SÜD's employees or consultants, or induce, solicit, or influence any employee or consultant of TÜV SÜD to terminate or curtail his or her employment or engagement with TÜV SÜD, without TÜV SÜD prior written consent. The covenants and obligations of Customer in this Section 17.1 shall survive termination the Agreement, however occurring, and shall be specifically enforceable in addition to and not in limitation of any other legal or equitable remedies, including monetary damages. The foregoing shall not apply to the extent that either party hires an employee of the other as a direct result of a response to a publicly advertised, widely disseminated job posting.

17.2 Electronic Signatures. The parties agree that the execution of the Agreement is agreed by exchanging electronic signatures, shall have the same legal force and effect as the exchange of original signatures to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act and any other applicable law. In any proceeding arising under or relating to the Agreement, each party hereby waives any right to raise any defense or waiver based upon execution of the Agreement by means of such electronic signatures or maintenance of the executed agreement electronically. The Agreement may be executed in one or more counterparts, all of which when fully executed and delivered by all parties to the Agreement and taken together shall constitute a single agreement, binding against each of the parties.

17.3 Severability. If any parts of the Agreement are held to be invalid, illegal, or unenforceable the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired and shall continue in full force and effect, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

17.4 Contract Language. The contract language is English. Insofar as the parties to the contract use another language in addition, the English wording shall prevail.

17.5 Nonwaiver/Remedies. Any waiver or failure by TÜV SÜD to require strict compliance with the provisions of the terms of this Order in any respect must be in writing and shall not be deemed a waiver of TÜV SÜD's right to insist upon strict compliance thereafter. TÜV SÜD retains all rights and remedies granted to it by operation of law, or in equity, in addition to those set forth herein.

17.6 Counterparts. This Agreement may be executed in any number of counterparts, all of which together constitute a single agreement.

- 17.7 Entire Agreement.** Except as expressly set forth herein, the Agreement and Orders entered into by the parties in accordance herewith constitutes the final, complete and exclusive statement of the Agreement between the parties in respect of the subject matter hereof and supersede all prior and contemporaneous written and oral negotiations, understandings and agreements between the parties, including specifically any advertising or sales materials or any Customer purchase order or other ordering document.
18. **USE OF NAME AND MARKS.** Customer may not use TÜV SÜD's name or any of its trademarks, tradenames, logos or other intellectual property or likeness for any reason, including, without limitation, in any client list, press release, brochure, advertisement or the like without TÜV SÜD's prior written consent.
19. **CUSTOMER'S REQUIREMENTS.** TÜV SÜD performance is contingent upon Customer timely complying with and fulfilling all of its obligations under this Agreement. These obligations include the Customer supplying all necessary access to all required equipment, parts, components, materials, documents, permits and approvals needed for TÜV SÜD to perform the Services including, but not limited to, accurate technical information and data, drawing and document approvals, and all necessary commercial documentation. Customer shall provide access to the site as reasonably required by TÜV SÜD for the performance of the Services. TÜV SÜD may request a change order for an equitable adjustment in prices and times for performance, as well as to adjust for any additional costs or any delay resulting from the failure of Customer, Customer's contractors, successors or assigns to meet these obligations or any other obligations in this Agreement. Customer shall also maintain the site in a safe condition, notify TÜV SÜD promptly of any site conditions requiring special care, and provide TÜV SÜD's with any available documents describing the quantity, nature, location, and extent of such conditions, including any Material Safety Data Sheets (MSDS) related to all hazardous materials at the site which may impact the Services.

TÜV SÜD CANADA INC.

Customer's legal name _____

Signature _____ Signature _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

For more information on our services, see our website: www.tuvsud.com/en-us

Please forward any questions to:
TÜV SÜD America Inc., FCO Group, 401 Edgewater Place, Suite 500, Wakefield, MA 01880

Customer's Billing Address:

Email address: