

# General Terms and Conditions of Purchase for Deliveries and Services / Goods of Third Parties to Companies of TÜV SÜD South Africa (Pty) Ltd and its subsidiaries



**1. Definitions**

The following expressions shall have the following meanings:

- 1.1. **"Agreement"** – these general terms and conditions of business;
- 1.2. **"Data Message"** – any information generated, sent, received or stored by electronic means and include, without being limited to, electronic mail and Records;
- 1.3. **"Day"** – a day other than a public holiday in the Republic of South Africa, Saturday or Sunday;
- 1.4. **"Order"** – a written order for Services placed by TÜV SÜD SA with a Service Provider;
- 1.5. **"Other Protected Parties"** – members, directors, officers, employees, representatives, agents and independent contractors of TÜV SÜD SA;
- 1.6. **"Party/ies"** – either TÜV SÜD SA or the Service Provider, or both, as the context in which the word appears requires;
- 1.7. **"Purchase Price"** – the purchase price for the Services/Goods as set out more fully in each Order;
- 1.8. **"Record"** – any information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in legible form;
- 1.9. **"Service Provider"** – the party entering into this Agreement with TÜV SÜD SA;
- 1.10. **"Services/Goods"** – the services and/or goods provided to TÜV SÜD SA by a Service Provider pursuant to an Order placed by TÜV SÜD SA;
- 1.11. **"TÜV SÜD SA"** – TÜV SÜD South Africa Proprietary Limited, a company registered and incorporated in terms of the laws of South Africa under registration number 2010/009250/07 with its address at Boston Circle, Airport Industria, Cape Town, Western Cape, 7490, and all of its subsidiaries from time to time

**2. Order and Agreement**

- 2.1. The legal relationships between the Service Provider and TÜV SÜD SA or any company with the TÜV SÜD SA group of companies, shall be exclusively regulated in terms of this Agreement. The Parties agree that the Service Provider's general terms and conditions (if any) shall not apply to any Orders placed by TÜV SÜD SA in respect of the Services/Goods.
- 2.2. A valid and binding agreement between TÜV SÜD SA and the Service Provider on the terms set out in this Agreement shall come into existence at the time when and place where TÜV SÜD SA places the Order, and shall remain in effect until terminated and/or cancelled by TÜV SÜD SA. It is further recorded that, unless otherwise agreed to between the Parties, the provisions of this Agreement shall apply to all future Orders placed by TÜV SÜD SA.
- 2.3. Each Order accepted by TÜV SÜD SA shall create a separate agreement. Notwithstanding the aforesaid, the breach of any one such agreement shall, at TÜV SÜD SA's election, constitute a breach of any of or all such agreements.

- 2.4. Only Orders that are placed and confirmed in writing by TÜV SÜD SA shall be legally binding on the Parties.
- 2.5. In the event that the Service Provider does not accept an Order in writing within 10 Days of receipt thereof, TÜV SÜD SA may cancel the Order.
- 2.6. TÜV SÜD SA may request changes to the Services/Goods contemplated in an Order at any time after the acceptance of an Order by the Service Provider, provided that the Service Provider agrees to such change in writing.

**3. Prices, Shipping and Packaging**

- 3.1. The Parties agree that the Purchase Price shall, unless otherwise agreed to in writing, exclude VAT (Value Added Tax), transportation, packaging and any other costs not provided for in an Order. If the Purchase Price is not shown in an Order, the Service Provider's standard list prices (if any) valid at the time of the Order shall apply with the standard deductions.
- 3.2. The Service Provider shall not be entitled to any payments for site visits, specimens/samples or preparing offers/quotes etc. relating to the Services/Goods.
- 3.3. TÜV SÜD SA shall be notified of all deliveries of Services/Goods Ordered by TÜV SÜD SA, as soon as reasonably possible after TÜV SÜD SA has placed an Order, by means of a shipment notification which shows exactly the type, quantity and weight of Services/Goods to be delivered. All shipment notifications, bills of freight, invoices and all correspondence must show the TÜV SÜD SA's Order number.
- 3.4. The Service Provider shall ensure that all hazardous Services/Goods to be delivered pursuant to an Order are appropriately marked and labelled as required by the applicable legislation.
- 3.5. In the event of any change in the date and/or time of a delivery of Services/Goods, the Service Provider shall be required to obtain the prior written approval TÜV SÜD SA. Should TÜV SÜD SA agree to a partial delivery, the remaining balance of the Services/Goods to be delivered shall be recorded in the shipment notification.
- 3.6. Shipping and delivery to the destination indicated by TÜV SÜD SA shall take place at the sole risk of the Service Provider. Risk of the Services/Goods shall pass to TÜV SÜD SA on delivery of the Services/Goods at TÜV SÜD SA's chosen delivery destination.
- 3.7. The Service Provider shall be obliged to take back all packaging and shall manage the disposal of such packaging in accordance with the statutory provisions of the Republic of South Africa. Superfluous packaging must be avoided. Only environmentally friendly packaging materials may be used. If packaging is invoiced separately, TÜV SÜD SA shall be entitled to return such packaging to the Service Provider free of charge, provided that

I/We, the undersigned, hereby confirm that I/we have read and understood the provisions of this Agreement with TÜV SÜD SA and agree thereto.

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the packaging is in a usable condition. The Service Provider shall reimburse TÜV SÜD SA for two thirds of the value of the packaging returned to the Service Provider, at the rate shown on the applicable invoice.

**4. Documents, Safety Devices and Intellectual Property Rights**

- 4.1. Storage, assembly and operating instructions and any necessary safety devices in respect of any Services/Goods shall be provided to TÜV SÜD SA free of charge. This shall also apply to documents that are required for the maintenance and repair of any Services/Goods Ordered by TÜV SÜD SA.
- 4.2. The Service Provider shall furnish documentary evidence of the origin of any Services/Goods Ordered, when so requested by TÜV SÜD SA, together with all the necessary data, which shall be duly signed and made available free of charge and without delay.
- 4.3. Implementation records, in particular drawings, jigs and fixtures, tools, models, etc., which TÜV SÜD SA provided to the Service Provider for the implementation of an Order, or which were made in accordance with the TÜV SÜD SA's instructions or paid for by TÜV SÜD SA, shall remain the property of TÜV SÜD SA. The Service Provider may only use the drawings, jigs and fixtures, tools, models, etc for the agreed purposes and they may only be made accessible to third parties with the TÜV SÜD SA's prior written approval and after an Order has been completed, all of the drawings, jigs and fixtures, tools, models, etc shall be returned to TÜV SÜD SA forthwith.
- 4.4. The Service Provider warrants that all Services/Goods are free of the proprietary rights of third parties and that in particular the licences, patents, copyrights and other intellectual property rights of third parties are not infringed by the delivery and use of the Services/Goods.
- 4.5. The Service Provider indemnifies TÜV SÜD SA and its customers from all claims by third parties arising from any infringements of intellectual property rights (as contemplated above) and shall bear all the costs that accrue to TÜV SÜD SA and its customers in this context.
- 4.6. TÜV SÜD SA shall have the right to obtain the necessary approval from the rightful owner of the licences, patents, copyrights and other intellectual property of third parties to use the Services/Goods concerned, at the cost of the Service Provider.

**5. Dates, Contractual Penalty and Substitute Performance**

- 5.1. Agreed delivery dates and periods are binding on the Parties. All Services/Goods provided by the Service Provider shall be free of defects at the delivery point indicated in an Order placed by TÜV SÜD SA.

- 5.2. A contractual penalty shall become due if the Service Provider defaults on any dates and/or agreed periods contemplated in an Order. The contractual penalty shall be 0.2 % of the value of the Order per calendar day of the delay, but not exceeding 5 % of the net value of the Order; where TÜV SÜD SA has more than one claim to contractual penalties, such penalties shall be aggregated. TÜV SÜD SA reserves the right to claim further damages, and the contractual penalty shall be set off against the actual damages resulting from such delay. If, on acceptance of the Services/Goods by TÜV SÜD SA, TÜV SÜD SA did not reserve the right to claim a contractual penalty, the contractual penalty may be claimed until the final payment in respect of such Order has been made by TÜV SÜD SA.
- 5.3. Notwithstanding the above, in the event of default by the Service Provider, the rights of both TÜV SÜD SA and the Service Provider shall otherwise be governed by the laws of the Republic of South Africa. The acceptance by TÜV SÜD SA of a late delivery and/or late rendering of the Services/Goods shall not amount to a waiver of claims for compensation.
- 5.4. If the requirements of an Order are not met, TÜV SÜD SA shall also be entitled to cancel the Agreement and to have such Services/Goods rendered by a third party at the cost and expense of the Service Provider.
- 5.5. The Service Provider shall notify TÜV SÜD SA of any identifiable and/or foreseeable delays to deliveries. It may only rely on a non-compliance with a deadline that is beyond its control if it has notified TÜV SÜD SA without delay of the reason for such delay. The Service Provider may only rely on the lack of necessary documents to be supplied by TÜV SÜD SA, if it used its best endeavours to obtain such documents and notwithstanding such endeavours did not receive them within an reasonable period.

**6. Warranty, Claims Under Liability for Defects, Damages and Periods for Giving Notice of Defects**

- 6.1. The Service Provider warrants that all Services/Goods will conform with the agreed specifications, the latest accepted engineering standards, any applicable national and international statutory requirements, including any rules and regulations by authorities, trade bodies and professional associations. If the Service Provider has any misgivings regarding the type of specifications required by TÜV SÜD SA it shall inform TÜV SÜD SA without delay to clarify same in writing.
- 6.2. The Service Provider agrees, to the extent that this is economically and technically possible, to use environmentally friendly products and processes for its deliveries and also for deliveries or ancillary services provided to third parties. At the request of

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- TÜV SÜD SA, the Service Provider shall issue a certificate of inspection for the Services/Goods free of charge.
- 6.3. TÜV SÜD SA shall notify the Service Provider, in writing, of all obvious defects in respect of the Services/Goods, as soon as reasonably possible, but not later than within 5 Days of the delivery or completion of the Services/Goods. In the case of hidden defects such notification period shall be 3 Days after detection.
  - 6.4. Following a request by TÜV SÜD SA, the Service Provider shall, without delay and free of charge, remedy any defects in respect of the Services/Goods; which shall also include the warranted data and warranted qualities. TÜV SÜD SA shall be free to choose the type of remedy, i.e. repair of the Services/Goods, replacement of the defective parts of the Services/Goods, or a replacement of the Services/Goods.
  - 6.5. The Service Provider shall also bear all expenses in connection with the detection of the defect and its remedy, insofar as these have been incurred by TÜV SÜD SA, in particular inspection costs, costs of dismantling and assembling, freight charges, transport costs and the costs of labour and materials. The provisions of this clause 6.5 shall also apply insofar as the cost of rendering or providing the Services/Goods has increased because the Services/Goods were taken to a location other than the place of destination required by TÜV SÜD SA.
  - 6.6. If required by TÜV SÜD SA, the Service Provider shall carry out repairs or new deliveries in multi-shift operations or during overtime or on public holidays, provided that this is necessary because of TÜV SÜD SA's existing essential operating requirements.
  - 6.7. If the Service Provider has failed to meet a reasonable deadline set by TÜV SÜD SA for a repair or a replacement delivery on more than one occasion, TÜV SÜD SA shall be entitled to cancel this Agreement with immediate effect (without limitation to any other remedies it may have).
  - 6.8. If the non-fulfilment and/or defective performance is limited to a definable part of the Services/Goods, TÜV SÜD SA is entitled to cancel only such portion of the Order, in which case the remainder of the Order will remain in full force and effect (without limitation to any other remedies it may have).
  - 6.9. Notwithstanding any other provision contain in this Agreement, TÜV SÜD SA reserves the right to claim damages in all cases (without limitation to any other remedies it may have).
  - 6.10. If the Service Provider fails to comply with its obligations to repair or replace a part or Services/Goods within the reasonable deadline set by TÜV SÜD SA, TÜV SÜD SA may carry out the necessary remedial measures itself or have them carried out by third parties, in which case TÜV SÜD SA shall be entitled to recover such costs from the

- Service Provider. TÜV SÜD SA may remedy minor defects without prior agreement with the Service Provider to minimise its loss without affecting the Service Provider's obligations under this Agreement and its liability for any defects. TÜV SÜD SA may then charge the Service Provider for the necessary cost and expense incurred by it.
  - 6.11. The warranty periods in respect of warranties provided by the Service Provider for Services/Goods shall apply, unless otherwise agreed to between the Parties. Any such period shall commence upon the delivery of the Services/Goods to TÜV SÜD SA (or to a third party designated by TÜV SÜD SA) at the destination stipulated for delivery by TÜV SÜD SA. Notwithstanding the aforesaid, as regards installations of machinery and plants the applicable warranty periods shall commence on the date of the acceptance inspection referred to in the written acceptance declaration by TÜV SÜD SA which inspection shall take place as soon as is reasonably possible after installation. However, if the acceptance inspection by TÜV SÜD SA is delayed for any reason other than any act/omission by TÜV SÜD SA, the applicable warranty period shall commence on the installation of the item to TÜV SÜD SA.
  - 6.12. For deliveries of repaired or replaced Services/Goods or parts thereof, which cannot be used by TÜV SÜD SA during the period in which the Services/Goods are being examined and/or repaired and/or replaced, the warranty period shall be extended by the period of interruption of use.
- 7. Quality Assurance and Product Liability**
- 7.1. The Service Provider shall carry out suitable quality assurance of the Services/Goods and in accordance with industry standards and shall provide evidence of this to TÜV SÜD SA on demand. The Service Provider shall conclude an appropriate quality assurance agreement with TÜV SÜD SA where TÜV SÜD SA, in its sole discretion, regards it as necessary.
  - 7.2. The inspections and tests carried out by the Service Provider on the Services/Goods shall ensure that the deliveries conform to TÜV SÜD SA's technical specifications required in respect of the Services/Goods. The Service Provider agrees to make available the records of all inspections and tests carried out by it and to keep records of all inspection and tests results for a period of 10 years. TÜV SÜD SA may inspect these documents at any time and make copies thereof if required.
  - 7.3. Unless otherwise agreed, the Service Provider shall mark the delivered Services/Goods in such a way that they are permanently recognisable as being its Services/Goods.
  - 7.4. The Service Provider agrees that TÜV SÜD SA and Other Protected Parties shall not (under any circumstances) be liable for any damages or loss,

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including consequential loss, arising out of any cause whatsoever relating to the Services/Goods including, without being limited to, death or personal injury to any person, the loss, destruction of or damage to any property, other than as a result of the gross negligence of TÜV SÜD SA and/or the Other Protected Parties.

- 7.5. The Service Provider indemnifies each of TÜV SÜD SA and the Other Protected Parties against any claim for damages or loss, including consequential loss, arising out of any cause whatsoever relating to the Services, brought by any person, other than as a result of the gross negligence of TÜV SÜD SA and/or the Other Protected Parties.
- 7.6. The Service provider shall obtain adequate insurance against all risks under product liability including the recall risk and, at TÜV SÜD SA's request, shall submit the insurance policy to it for inspection.

**8. Invoicing, Payment, Certificates, Rights to Withhold, Set-Off and Insolvency of the Service Provider**

- 8.1. Invoices shall be submitted separately to TÜV SÜD SA in duplicate with all the appropriate documentation and data after the delivery of the Services/Goods.
- 8.2. Payments shall be made within 30 calendar days of receipt of the Service Provider's invoice, in which case TÜV SÜD SA shall be entitled to a discount of 3% of the amount invoiced. In the event that the Services/Goods are defective and have to be repaired or replaced, the aforementioned 30 calendar period shall commence after the defective Services/Goods have been repaired or replaced (i.e. the discount shall still apply to that 30 calendar day period). Deliveries of Services/Goods ahead of schedule shall not affect an agreed date for the payment thereof.
- 8.3. Insofar as certificates of material tests of the Services/Goods are agreed to between the Parties, they shall form an essential part of the Services/Goods and shall be sent to TÜV SÜD SA together with the invoice. However, TÜV SÜD SA must receive them by not later than 10 Days after receipt of the invoice. In these cases, the period for payment of the Services/Goods shall commence on the receipt of the agreed certificate.
- 8.4. TÜV SÜD SA shall be entitled to withhold payment in the event of incomplete or defective deliveries or provision of the Services/Goods.
- 8.5. TÜV SÜD SA shall have the right to set off any claims brought against the Service Provider by any other companies that are part of the TÜV SÜD SA group of companies, as defined in section 1 of the Companies Act, 71 of 2008, as amended, against invoices issued by the Service Provider for the Services/Goods.

**9. Compliance and Termination**

- 9.1. The Service Provider hereby confirms that it has read TÜV SÜD Code of Ethics available online at <https://www.tuvsud.com/en/about-us/code-of-ethics>.
- 9.2. The Service Provider hereby assumes the obligation to undertake all necessary action in order to ensure that all of its employees comply with all applicable laws and refrain from any illegal activities. The Service Provider hereby confirms that neither it nor any of its employees have committed any act in connection with this Agreement that may constitute bribery, nor shall the Service Provider or its employees commit such acts in the future. The Service Provider hereby represents to TÜV SÜD SA that it shall refrain from all activities which could constitute a criminal act of fraud, fraudulent breach of trust, criminal offence under insolvency law, an offence under competition law, the granting of an undue advantage or bribery.
- 9.3. In the event that the Service Provider has entered into an agreement which is in breach of relevant competition laws, it shall be liable to pay to TÜV SÜD SA 10% of the net order value of the Services/Goods. Both Parties shall be entitled to prove that a higher or lesser amount of damage has been caused in which event TÜV SÜD SA shall be entitled to claim such higher amount or the Service Provider shall be entitled to only pay such lower amount. This payment obligation shall also arise if such agreement has been terminated or fulfilled. This right will be without limitation to any other remedies which TÜV SÜD SA may have in law. Inadmissible restraints of trade agreements shall be deemed to include anticompetitive practices and agreements with other contractors/tenderers in relation to:
  - 9.3.1. the prices to be demanded;
  - 9.3.2. commitments concerning further payments;
  - 9.3.3. profit mark-ups;
  - 9.3.4. process margins and other price elements;
  - 9.3.5. payment, delivery and further conditions, insofar as they directly impact on the price;
  - 9.3.6. profit sharing or other participation arrangements;
  - 9.3.7. as well as recommendations, unless such practices or agreements are admissible under applicable competition law.
- 9.4. The Service Provider hereby represents and warrants to TÜV SÜD SA that all necessary consents and authorizations have been obtained prior to providing the Services/Goods to TÜV SÜD SA.
- 9.5. In the event of any breach of the provisions in this clause 9, attributable to the Service Provider's fault, TÜV SÜD SA shall be entitled to terminate all contractual agreements between TÜV SÜD SA and the Service Provider. In the event that TÜV SÜD SA is held liable by any third party based on a violation of any undertaking in this clause 9 by the Service Provider, the Service Provider hereby agrees to

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indemnify TÜV SÜD SA from any such third party claims. In addition, the Service Provider hereby agrees to reimburse TÜV SÜD SA for all damages and losses related to such third party claim.

**10. Breach by the Service Provider**

If the Service Provider:

- 10.1. breaches any provision of this Agreement and fails to rectify such breach within 5 Days of receipt of a written notice delivered to it by TÜV SÜD SA, calling upon the Service Provider to rectify such breach;
- 10.2. being a natural person commits any act of insolvency or assigns, surrenders or attempts to assign or surrender his/her estate;
- 10.3. allows a default judgement to remain unsatisfied for a period for 7 Days or be refused rescission within 14 Days of any default judgment;
- 10.4. is sequestrated, liquidated, or placed under business rescue, or wound up, whether provisionally or finally;
- 10.5. compromises with any of its creditor/s or endeavours to attempt to do so, then and upon the occurrence of any of these events (**all of which are deemed to be material**) TÜV SÜD SA shall be entitled at its election, to seek specific performance of the Service Provider's obligations in terms of this Agreement, or to cancel this Agreement, in either instance without prejudice to TÜV SÜD SA's right to claim such damages as it may have suffered by reason of such breach.

**11. Breach by TÜV SÜD SA**

If TÜV SÜD SA breaches any provision of this Agreement and fails to rectify such breach within 15 Days of receipt of a written notice delivered to it by the Service Provider, calling upon TÜV SÜD SA to rectify such breach, then the Service Provider shall be entitled at its election, to seek specific performance of TÜV SÜD SA's obligations in terms of this Agreement, or to cancel this Agreement, in either instance without prejudice to the Service Provider's right to claim such damages as it may have suffered by reason of such breach.

**12. Admissibility of Data Messages**

Subject to the provisions of clause 13:

- 12.1. The Parties agree that they may conclude binding agreements by means of Data Messages and that a requirement in this Agreement that a notice, Order or other document be in writing shall be satisfied if such notice, Order or other document is:
  - 12.1.1. in the form of a Data Message; and
  - 12.1.2. accessible in a manner useable for subsequent reference (including without limitation, a hard copy print-out thereof).
- 12.2. Information and Data Messages shall not be denied legal effect, validity or enforceable solely on the grounds that same are wholly or partly in electronic form.
- 12.3. Information shall not be denied legal effect, validity or enforceable solely on the grounds that it is not

contained in the Data Messages purporting to give rise to such legal effect, but merely referred to in such Data Message.

- 12.4. No information shall be deemed to be incorporated into a Data Message unless such information is referred to in a way in which a reasonable person would have noticed the reference and incorporation of such information, and such information is made accessible to the other Party in a form in which it may be read, stored and retrieved by the other Party on request.

**13. Intellectual Property Rights and Data Protection**

- 13.1. "Intellectual Property" shall mean all patents, rights to inventions, utility models, copyright and related rights, trade marks, logos, service marks, trade dress, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets), methods and protocols relating to the Services/Goods, and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals, reversions or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- 13.2. Each Party exclusively owns all rights to its Intellectual Property whether created before or after the commencement date of the Agreement and whether or not associated with any Agreement between the Parties.
- 13.3. Neither Party shall contest the validity of the other Party's Intellectual Property rights nor take any action that might impair the value or goodwill associated with the Intellectual Property of the other Party.
- 13.4. Each Party shall take all necessary steps to ensure that it operates at all times in accordance with all applicable data protection laws and regulations.
- 13.5. The names, service marks, trademarks and copyrights of TÜV SÜD SA shall not be used by the Service Provider except solely to the extent that the Service Provider obtains the prior written approval of TÜV SÜD SA and then only in the manner prescribed by TÜV SÜD SA.

**14. Confidentiality and TÜV SÜD SA's Property**

- 14.1. "Confidential Information" shall mean any information disclosed in whatever form, by a Party to the other Party including, but not limited to, technical, environmental, commercial, legal and financial information relating directly or indirectly to the Parties and/or to the Agreement.
- 14.2. Each of the Parties shall not disclose or use for any purpose whatsoever any of the confidential knowledge or Confidential Information, without the

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- prior written consent of the Party that disclosed the Confidential Information.
- 14.3. The confidentiality undertaking shall not apply to any information:
- 14.3.1. which is publicly available or becomes publicly available through no act of the receiving Party;
  - 14.3.2. which was in the possession of the receiving Party prior to its disclosure;
  - 14.3.3. which is disclosed to the receiving Party by a third party who did not acquire the information under an obligation of confidentiality;
  - 14.3.4. which is independently developed or acquired by the receiving Party without use of or reference to Confidential Information received from the disclosing Party;
  - 14.3.5. which is disclosed in accordance with the requirements of law, any stock exchange regulation or any binding judgment, order or requirement of any court or other competent authority.
- 14.4. Each Party shall be responsible for ensuring that all persons to whom Confidential Information is disclosed under the Agreement shall keep such information confidential and shall not disclose or divulge same to any unauthorized person or entity, and shall assume full responsibility for any breach of said undertaking.
- 14.5. On expiry or termination of the Agreement for any reason and at the direction of the other Party, each Party shall return or destroy the other Party's Confidential Information which is at that time in its possession or under its control.

**15. Notices and Domicilium**

The Parties choose as their domicilium citandi et executandi (“**Domicilium**”) for all purposes their address as stated in the Order. Either Party may change its Domicilium by giving notice in writing to the other Party. Any notice to a Party's Domicilium shall be in writing and shall be deemed to have been received on the 7th Day after the date of posting, if sent by prepaid registered post, or on the date of delivery or transmission if delivered by hand or transmitted by electronic transmission.

**16. Force Majeure**

Neither Party hereto shall have any liability under this Agreement to the other Party by reason of failure to fulfil any obligations in terms of this Agreement if such failure is occasioned by force majeure including, but not limited to, events such as acts of God, fire, accident, government act, explosion, industrial dispute or any other act, omission or event beyond the reasonable control of such Party.

**17. Severability**

If any parts of these general terms of purchase are invalid this shall not affect the validity of the remaining provisions.

**18. Place of Performance**

Unless otherwise agreed in writing the place of performance for the obligation to deliver is the delivery location indicated by TÜV SÜD SA in each Order.

**19. Arbitration**

- 19.1. Either Party shall be entitled to refer any dispute arising from or in connection with this Agreement to arbitration, which shall be binding on the Service Provider and TÜV SÜD SA.
- 19.2. The arbitrator must be a person agreed upon by the Parties, or failing agreement, an arbitrator must be appointed by the Arbitration Foundation of South Africa, who shall then finally resolve the dispute in accordance with the rules for expedited arbitration.

**20. General**

- 20.1. Entire agreement: This Agreement constitutes the sole agreement applicable to the supply of the Services/Goods by TÜV SÜD SA and no agreement sought to be imposed by the Service Provider shall be of any force or effect.
- 20.2. Interpretation: If there is a conflict between this Agreement and any Order or any other correspondence relating to any Order then the terms of this Agreement shall prevail, unless expressly provided otherwise. The clause headings in this Agreement are intended for convenience only and shall not affect the construction or interpretation of this Agreement.
- 20.3. Variation: No amendment or modification to this Agreement shall be effective unless in writing and signed by authorised signatories of both TÜV SÜD SA and Service Provider.
- 20.4. Subcontracting: The Service Provider shall not be entitled to subcontract / delegate any of its obligations under this Agreement without the prior written consent of TÜV SÜD SA.
- 20.5. Assignment: The Customer shall not be entitled to cede or delegate any of its rights or obligations under this Agreement to any third party without the prior written approval of TÜV SÜD SA.
- 20.6. Waiver: No relaxation or indulgence granted or given by TÜV SÜD SA to the Service Provider or failure by TÜV SÜD SA to exercise any right shall be deemed to be a waiver of any of TÜV SÜD SA's rights in terms of this Agreement and such relaxation or indulgence shall not be deemed to be novation of any of the terms of this Agreement.
- 20.7. Applicable Law: This Agreement shall be governed and construed according to the laws of the Republic of South Africa. The Service Provider hereby consents and submits to the jurisdiction of the Magistrate's Court having jurisdiction in respect of all proceedings in connection with this Agreement notwithstanding that the amount claimed or the value of the matter in dispute exceeds such jurisdiction. In any event TÜV SÜD SA shall be entitled, at its option, to institute any proceedings in connection with this Agreement against the Service

I/We, the undersigned, hereby confirm that I/we have read and understood the provisions of this Agreement with TÜV SÜD SA and agree thereto.

Name in print	Signature
Date	Place

If applicable, signed for and on behalf of the Service Provider (who warrants his / her authority hereto)

**General Terms and Conditions of Purchase for  
Deliveries and Services / Goods of  
Third Parties to Companies of TÜV SÜD South  
Africa (Pty) Ltd and its subsidiaries**



Provider in any other court of competent jurisdiction.

20.8. Costs: All costs and disbursements (including, without being limited to, legal costs on the attorney and own client scale, valuation costs and tracing agent's costs) incurred by either Party as a result of or relating to the other Party ("**Defaulting Party**") failing to comply with its obligations in terms of this Agreement, shall be for the account of the Defaulting Party and are payable on demand.

20.9. Warranty of Authority: The Service Provider warrants that the person who accepts an Order from TÜV SÜD SA is duly authorised to accept such Order on behalf of the Service Provider.

I/We, the undersigned, hereby confirm that I/we have read and understood the provisions of this Agreement with TÜV SÜD SA and agree thereto.

Name in print \_\_\_\_\_ Signature \_\_\_\_\_

Date \_\_\_\_\_ Place \_\_\_\_\_

If applicable, signed for and on behalf of the Service Provider (who warrants his / her authority hereto)