

General Terms and Conditions of Business

of TÜV SÜD Management Service GmbH (hereinafter referred to as "MS")

1 General

- 1.1 MS provides testing and certification services, in particular auditing and certification of management systems.
- 1.2 The customer shall accept the General Terms and Conditions of Business of MS valid at the time of order placement. Deviating terms and conditions of business of individual customers cannot be recognized as a matter of principle, unless such terms and conditions have expressly been confirmed in writing.
- 1.3 Ancillary agreements, promises and other statements by MS employees or experts called in by MS shall only be considered binding if expressly confirmed by MS in writing. This shall also apply to any amendments to this clause.

2 Contractual Performance

- 2.1 Unless otherwise agreed, the contractual services will be rendered in accordance with the statute law applicable at the time of entry into force of the contract. MS shall be entitled to exercise its reasonable discretion in determining the method or type of inspection, test or assessment, provided that no conflicting written agreements have been made or that no specific course of action is required by mandatory law. MS shall perform the contractual services and/or prepare expert reports in accordance with the established state of the art and unless otherwise agreed in writing in the manner customary at MS. Unless otherwise explicitly agreed in writing, no responsibility shall be assumed for the correctness of the safety programs and safety regulations on which the tests and inspections have been based.
- 2.2 MS shall be entitled to use of sub-contractors to execute an order.
- 2.3 The scope of contractual activities to be performed by MS shall be defined in writing on placement of order. If any modification or extension of the defined scope of order prove necessary within the context of due performance of the contract, they shall be additionally agreed upon in advance and in writing. In such cases, customers shall have the right to withdraw from the contract, if they can no longer be expected to remain a party to the contract in view of the modification or extension. However, in accordance with Article 649 of the BGB (German Civil Code), the customer shall pay the agreed compensation or, if no sum has been agreed, a suitable remuneration.
- 2.4 The contractual services of MS shall be deemed as having been furnished and completed with preparation of the respective audit reports.

3 Deadlines, Default, Impossibility of Performance

- 3.1 The deadlines for contractual performance quoted by MS shall be binding only if this has been explicitly agreed upon in writing.
- 3.2 Should MS, for reasons for which it is to blame, have exceeded a binding deadline for contractual performance and thus be in default of its contractual obligations, the customer shall have the right to claim compensation for any damage due to delayed performance. Compensation shall amount to 1 % of the value of the contract whose performance is delayed under the terms of the contract for each completed week of delayed performance up to a total of 25 % of the above value. Any further claims for damages shall be governed by the provisions set out in Section 5.
- 3.3 Should MS' customer, in the case of delayed performance, grant a reasonable additional period within which performance is to take place and should MS fail to observe this new deadline or ascertain that performance is no longer possible, the customer shall have the right to withdraw from the contract and – if MS is at fault – claim damages in lieu of performance. Articles 281, 323 of the BGB (German Civil Code), shall remain unaffected hereby.

4 Warranty

- 4.1 Warranty by MS only covers contractual services with which it has been explicitly commissioned as per Section 2.1.
- 4.2 Any warranty given by MS shall initially be restricted to supplementary performance to be completed within a reasonable time limit. Should such supplementary performance fail, i.e. be impossible or unacceptable for the customer or be unjustifiably refused or delayed by MS, the customer shall be entitled, at its discretion, either to a reduction of the price or rescission of the contract.
- 4.3 Notwithstanding the sale and purchase of consumer goods and the consumer contracts which fall within the scope of Article 651 of the BGB (German Civil Code), any claims for supplementary performance, reduction of price or rescission of the contract, which are not subject to the limitation periods of Article 438 (1) No. 2 or Article 634a (1) No. 2 of the BGB (German Civil Code), shall be time-barred after one year following the beginning of the statutory limitation period, unless MS has maliciously concealed the defect.
- 4.4 Any claims for repayment of expenses covered by Article 635 (2) of the BGB (German Civil Code), shall not be affected by this clause.

5 Liability

- 5.1 MS shall only be liable for damages – regardless of their legal basis – if MS has caused any damage as a result of an intentional or grossly negligent act or if MS has negligently breached a substantial contractual obligation („material obligation“). In the event that MS is in breach of any substantial contractual obligations, MS shall only be liable for the damage related to and typically foreseeable under the particular contract at the time of entering into the contract.
- 5.2 In the event that MS is liable under no. 5.1 above for damages caused as a result of having breached, by an act of negligence, a substantial contractual obligation, its liability shall be limited in each single case to:
 - 1,000,000.00 EUR for property damage,
 - 500,000.00 EUR for economic loss.
- 5.3 MS shall not be liable for any damages caused as a result of a negligent breach of a non-substantial contractual obligation.
- 5.4 "Substantial contractual obligations" are those obligations that protect the customer's legal interests deemed to be substantial to the contract, which the contract, based on its content and purpose, must specifically grant to the customer; further, such contractual obligations are substantial which are deemed to be prerequisites for proper performance of a contract and upon the observance of which the customer has generally relied and may rely.
- 5.5 The liability exemption contained in Section 5.1-5.4 and/or the liability limits shall not apply to damage to life, person, or health; nor shall it apply for claims under a warranty or claims based on the German Product Liability Act.
- 5.6 Any person making claims under this contract shall without delay inform MS in writing about any potential damage for which MS could be liable.

- 5.7 If claims for damages against MS are excluded or limited, this shall extend to any personal liability of any statutory organs, experts, miscellaneous employees, vicarious agents or any other auxiliary personnel of MS.
- 5.8 Save for the instances governed by Section 5.5, any claims for damages, which are not subject to the limitation periods of Article 438 (1) No. 2 or Article 634a (1) No. 2 of the BGB (German Civil Code), shall be time-barred after one year following the beginning of the statutory limitation period.

6 Terms of Payment, Prices

- 6.1 Unless a fixed price or other calculation basis has been explicitly agreed upon, services shall be billed in accordance at the prices valid at the time of performance.
- 6.2 Reasonable advance payments may be requested and/or partial invoices covering services already rendered may be made out. Partial invoices need not be designated as such. The receipt of an invoice does not mean that the order has been billed completely by MS.
- 6.3 Unless otherwise agreed the remuneration invoiced in accordance with Section 6.2 and/or the final invoice after finalization of the audits shall be due for payment within 14 days upon invoicing. Article 286 of the BGB (German Civil Code) shall not be affected by this clause.
- 6.4 The remuneration shall be subject to the value added tax at the applicable statutory rate. The amount of value added tax shall be shown separately on the invoice.
- 6.5 Any objections to invoices must be made in writing to MS within a 14-day preclusion period after receipt of invoice, with reasons stated.
- 6.6 In cases involving short-term cancellation (postponement of audit date) within six weeks in advance of the scheduled audit date, MS reserves the right to charge the customer any additional costs incurred by MS in connection with such cancellation/postponement.
- 6.7 In cases involving termination of the certification contract prior to expiry of the respective certificate, MS reserves the right to charge 15% of the remaining contract value to be invoiced. We reserve the right to charge 30% of the remaining contract value, if the contract is terminated between 2 months and 2 weeks before the target date for the next audit or the date set for the audit; 70% if the contract is terminated 2 weeks or less before this date, and 100% in the case of contract termination on the target date or the date set for the audit. MS reserves the right to furnish proof of higher damage. The party terminating the contract shall be entitled to furnish proof that damage suffered by MS is less than the above amount.

7 Secrecy, Copyright, Data Protection

- 7.1 MS shall have the right to copy and file any written documents submitted for perusal which are important for performance of the order.
- 7.2 In as far as audit reports, expert opinions, test results, calculations and the like that are protected by copyright are prepared within the scope of contractual performance, MS shall grant the customer a simple, non-transferable right of use, if this is required by the underlying purpose of the contract. This transfer of copyright explicitly shall not include the transfer of any other rights; the customer shall, in particular, not be entitled to change (process) or use audit reports, expert opinions, test results, calculations and the like outside its business. Any publication or duplication for marketing purposes shall require MS' prior consent in writing.
- 7.3 MS, its employees, and the experts called in by MS shall not, without authorization, disclose or turn to use any business or company circumstances of which they become cognizant during their activities.
- 7.4 MS shall store, process and use customer personal data for the proper implementation of the order and for its own purposes. To this end, MS will also use automated data processing systems. In order to meet the data protection requirements outlined in the appendix to Article 9 of the BDSG (German Data Protection Act), MS has taken technical and organisational measures to ensure the security of its data and data processing operations. The employees engaged in data processing are bound by the BDSG and are expected to observe all data protection regulations strictly.

8 Jurisdiction, Place of Performance, Applicable law

- 8.1 In as far as the prerequisites outlined in Article 38 of the Code of Civil Procedure have been fulfilled, the place of jurisdiction for the assertion of claims by both contractual partners shall be the domicile of MS.
- 8.2 Place of performance for any obligations arising out of the contract shall be the domicile of MS.
- 8.3 The contractual relationship and all legal relations arising from it shall be exclusively governed by, and construed in accordance with, the laws of the Federal Republic of Germany without regard to its provisions on the conflict of laws and the UN Treaty on the International Sale of Goods (CISG) which shall be expressly excluded.

9 Scope of Application, Miscellaneous

- 9.1 These General Terms and Conditions of Business shall apply to enterprises and all public corporations and Special Funds of the Federal Government as defined in Article 310 of the BGB (German Civil Code), unless explicitly agreed upon otherwise.
- 9.2 If the customer does not belong to the group of persons cited in Section 9.1 hereunder and enumerated in Article 310 of the BGB (German Civil Code), these General Terms and Conditions of Business shall apply with the following provisos:
 - Contrary to Section 3.1 above, the deadlines for order processing quoted by MS shall be binding;
 - Section 4.3 shall not apply;
 - Section 5.8 shall not apply;
 - Section 8.1 shall apply with the following proviso: The domicile of MS shall be agreed as the place of jurisdiction, if the customer moves its domicile, residence or normal place of abode to an area outside the purview of German law, or if the customer's domicile, residence or normal place of abode is unknown when the judicial action is brought;
 - Section 8.2 shall not apply.