

Terms of Use for the Chemical Data Management System – CDMS



1 SCOPE OF THESE TERMS

These Terms of Use (“**Terms**”) govern the rights and obligations concerning the provision of the web-based Chemical Data Management System (“**CDMS**”) and related services by the respective TÜV SÜD company (defined for the purpose of these Terms as any company subject to the control or significant influence of the parent company TÜV SÜD AG, or its subsidiaries hereinafter collectively referred to as “**TÜV SÜD**”) to the customer (“**Customer**”).

These Terms are an integral part of any Order (as defined below) placed for the relevant services as described hereinafter. In case of conflicts between the provisions of an Order and these Terms, the relevant provisions of the Order shall take precedence.

TÜV SÜD does not accept terms and conditions of the Customer or any other terms which deviate from these Terms. Any deviating terms and conditions not approved by TÜV SÜD shall not apply, regardless of whether or not TÜV SÜD expressly objects to them in a particular case.

2 DEFINITIONS

“**Acceptable Use**” has the meaning given to it in Sub-Clause 5.4.

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. “**Control**”, for purposes of this definition, means (i) direct or indirect ownership or control of more than 50 % of the voting interests of the subject entity and/or (ii) the ability to direct or cause the direction of the management and policies of the subject entity.

“**Authorized Users**” means individuals authorized to access and use the Software Solution. Unless agreed otherwise in writing, the Authorized Users may include employees, representatives and agents of the Customer who have a legitimate interest to access and use the Software Solution on behalf and under the control and responsibility of the Customer in accordance with the respective Order.

“**CDMS**” means Chemical Data Management System.

“**Contractual Year**” means any rolling period of twelve (12) months commencing on the respective Order Commencement Date and any anniversary thereof, provided that the last such Contractual Year shall be considered to end on the date of termination (howsoever arising) whether or not that date is an anniversary of the Order Commencement Date.

“**Customer Data**” means all electronic data or information submitted by or on behalf of the Customer or Authorized Users to or through the Software Solution.

“**Enhancement**” means any new release or version of the CDMS, including any error corrections, updates, bug fixes, patches, and/or modifications.

“**Fees**” means any remuneration agreed in the respective Order that TÜV SÜD is entitled to claim from the Customer in consideration for providing the Services. The prices and rates for the Services are set forth in the respective Service Description or a price list, as applicable and as amended by TÜV SÜD from time to time.

“**Intellectual Property Rights (IPR)**” are any and all rights in and with respect to inventions, patents, copyrights, database right, designs, know-how, trade secrets, moral rights, confidential and/or proprietary information, trade names, domain names, trade dress, logos, animated characters, trademarks, service marks, and other similar rights or interests in intellectual property, in any case whether arising by registration or operation of law (and in the case of registered rights including all rights to apply and applications), wherever in the world arising, whenever arising and including all present and (where capable of present ownership) future rights.

“**Order**” means an order of the Customer for certain Services via the designated TÜV SÜD digital customer platform, provided such order is duly accepted by TÜV SÜD.

“**Order Commencement Date**” means the date on which an Order comes into force. The Order Commencement Date is set forth in the respective Order or, in the absence of such specification, the date on which TÜV SÜD accepts Customer’s order for the respective Services.

“**Services**” means collectively the services of TÜV SÜD which are subject to a valid Order.

For the avoidance of doubt, Services do not include Third-Party-Services. Such Third-Party-Services are governed by separate agreements between the Customer and the respective third party.

“**Service Term**” means a rolling period of twelve (12) months commencing on the Order Commencement Date and (i) expiring at the effective date of a termination by either Party in accordance with these Terms.

3 SCOPE OF CDMS AND GRANT OF RIGHTS

3.1 Provision of CDMS

3.1.1 Subject to Customer’s due payment of the Fees TÜV SÜD grants to the Customer for the duration of the Service Term a non-exclusive, non-transferable, non-sublicensable right to access and use the CDMS by its Authorized Users only and solely for Customer’s business purposes in accordance with these Terms. As the CDMS is provided through a web-based Service, the Customer will not be provided with any physical or digital copy of the CDMS.

3.1.2 Except as set forth in sub-clause 3.1.1, any grant of access rights to third parties is strictly prohibited and the Customer is not entitled to sell, lease, rent, (re-)distribute, (re-)market, make available to the public, use for service bureau purposes or on a timesharing basis, or otherwise make the CDMS available to third parties.

3.1.3 TÜV SÜD assumes no warranty or liability that the CDMS meet the expectations of the Customer with regard to individual requirements and purposes of the Customer unless explicitly agreed between the Parties in the respective Order. The Customer agrees that its purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by TÜV SÜD regarding future functionality or features.

3.1.4 The Customer will be given logins and passwords for its Authorized Users to use in connection with the Software Solution. The Customer shall change the logins and passwords on a regular basis in accordance with appropriate password policies. The Customer, and each Authorized User, is entirely responsible for maintaining the confidentiality and security of Customer’s passwords, and is solely responsible for any and all activities that occur under its account(s) to the extent such activities have been authorized by the Customer and/or an Authorized User, or have not been authorized by Customer and/or an Authorized User but could have been prevented by it when exercising due care. Passwords may not be used by more than one Authorized User and the Customer is prohibited from transferring or sharing passwords with any person that is not an Authorized User. The Customer shall ensure that Authorized Users exit or log-off from their account at the end of each session of use.

4 UPDATES TO THE SERVICES

4.1 General

Notwithstanding sub-clause 4.2, TÜV SÜD may (i) make changes or updates to the Services including Enhancements or other changes (such as functionality, infrastructure, security, technical configurations, application features, etc.),

4.2 Changes due to applicable laws

If TÜV SÜD, in its reasonable discretion, deems that TÜV SÜD is required to make changes to the Services due to changes to applicable laws, TÜV SÜD will make the appropriate changes and notify the Customer accordingly without undue delay.

5 SPECIFIC CUSTOMER DUTIES

5.1 Customer Cooperation

The Customer shall render to TÜV SÜD any cooperation that is reasonable and appropriate for the proper performance of the Services. The Customer acknowledges that TÜV SÜD’ Service performance may depend on Customer’s timely and proper performance of its cooperation obligations. In particular the Customer shall (i) make available to TÜV SÜD, in a reasonable format and in a timely manner, the data and information that is necessary for rendering the agreed Services, (ii) use reasonable measures to ensure that the personnel involved in receiving and using the Services is adequately qualified, and (iii) provide timely instructions, approvals and sign-offs, as appropriate. Further, Customer’s cooperation obligations may include ensuring performance of the necessary cooperation by Customer’s agents, contractors, consultants or third-party providers involved by the Customer in connection with Customer’s use of the Services. If the Customer fails to cooperate in accordance with these Terms, TÜV SÜD shall not be responsible for any consequences caused by such failure. In particular any deadlines or Service Levels affected by such failure to cooperate shall be suspended for a period that equals the duration of Customer’s failure to cooperate plus a

Terms of Use for the Chemical Data Management System – CDMS



reasonable time to resume. The Customer shall reimburse TÜV SÜD for any additional efforts caused by such failure on the applicable time & material rates. Customer's obligation to pay any agreed Fees remains unaffected.

5.2 Customer Instructions

In performing its obligations under these Terms, TÜV SÜD will be entitled to reasonably rely upon any instructions, authorizations, sign-offs, approvals or other information provided to TÜV SÜD by the Customer. TÜV SÜD shall not be liable for any consequences arising out of its performance of the Services in accordance with such information received from the Customer.

5.3 Customer Compliance

The Customer shall (i) comply, and shall procure that the Authorized Users comply, with these Terms, including but not limited to the Acceptable Use set forth in sub-clause 5.4; (ii) be solely responsible for the accuracy, quality, integrity and legality of Customer Data and of the means by which it acquired Customer Data; (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify TÜV SÜD promptly of any such unauthorized access or use; (iv) use the Services only in accordance with the Service Descriptions and applicable laws and government regulations, (v) not interfere with or disrupt the integrity or performance of the Services or third party data contained therein, and (vi) not attempt to gain unauthorized access to the CDMS or their related systems or networks.

5.4 Acceptable Use

The Customer acknowledges and agrees that TÜV SÜD does not monitor or police the content of data of the Customer or its Authorized Users uploaded in or transmitted through the CDMS and that TÜV SÜD shall not be responsible for the content of any such communications or transmissions. The Customer shall use the CDMS exclusively for authorized and legal purposes, consistent with all applicable laws. The Customer agrees not to load into the CDMS any content or data which (i) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (ii) contains viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs; (iii) violates the rights of others, such as data which infringes on any Intellectual Property Rights or violates any right of privacy or publicity; or (iv) otherwise violates any applicable laws (including, without limitation, the laws and regulations governing unfair competition). TÜV SÜD reserves the right to delete, move or edit any Customer Data that it may determine, in its reasonable discretion, violates these Terms and/or applicable laws.

5.5 Monitoring

Subject to applicable laws, TÜV SÜD reserves the right to monitor Customer's compliance with these Terms. This may include without limitation license management measures which control whether the CDMS is accessed by Authorized Users only.

6 FEES AND PAYMENT

6.1 Fees

The Customer shall pay all Fees specified in the respective Order. Except as otherwise specified herein, (i) Fees are quoted and payable in USD, plus VAT, if any, at the statutory rate applicable from time to time, and (ii) payment obligations are non-cancellable and Fees paid are non-refundable, except in case the Customer terminates an Order for cause. Unless otherwise agreed in the respective Order, the charging period shall be annually and invoiced in advance of each Service Term. If the first Contractual Year is a partial year, the Fees are prorated accordingly.

6.2 Invoicing and Payment

Fees are due net without any deduction within 30 days from the invoice date. The Customer is responsible for maintaining complete and accurate billing and contact information in the Services.

6.3 Overdue Fees, Suspension of Services

If any Fees invoiced in accordance with these Terms and the respective Order are not received by TÜV SÜD by the due date, then the Customer shall pay an interest on any outstanding amount overdue at the rate of 8 %per annum or the highest statutory rate permitted under applicable laws, whichever is higher. If the Customer is in payment delay for a period of 60 days or longer, TÜV SÜD may, without liability to the Customer and without limiting TÜV SÜD' other rights and remedies, suspend the Services under the respective Order to the Customer until such amounts are paid in full, provided that TÜV SÜD grants the Customer a cure period of at least 14 days by means of prior written notice (email or fax being sufficient) and the Customer fails to settle the outstanding amount within that period.

6.4 Taxes

6.4.1 Unless otherwise stated, the Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales and use, or withholding taxes, assessable by any local, state, federal or foreign jurisdiction ("**Taxes**"). TÜV SÜD will invoice the Customer, and Customer shall reimburse TÜV SÜD for, any such Taxes charged to TÜV SÜD by any governmental authority in connection with providing the Services to the Customer.

6.4.2 Where applicable laws require the Customer to withhold and pay any withholding taxes or similar levies, the Customer may do so, provided that Customer's obligation to pay the net prices as invoiced by TÜV SÜD shall remain unaffected. Therefore, as between the Parties, the Customer shall pay to TÜV SÜD the net amount remaining after the respective deduction plus the amount that was deducted, in order to ensure that TÜV SÜD receives the full net price as contractually agreed.

6.5 Price Adjustment

Once per Contractual Year TÜV SÜD may in its discretion adjust the agreed Fees for the Services, with effect for the following commencing year.

7 PROPRIETARY RIGHTS

7.1 Reservation of Rights

TÜV SÜD reserves all IPR and other rights, title and interest in and to the Services, in particular to the CDMS, including all related Intellectual Property Rights. No rights are granted to the Customer hereunder other than as expressly set forth herein.

7.2 Restrictions

The Customer shall not (i) permit any third party to access the Services except as permitted in these Terms, (ii) create derivative works based on the Services, (iii) reverse engineer the Services, unless this is permitted by mandatory applicable laws, or (iv) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

7.3 Ownership of Customer Data

As between TÜV SÜD and the Customer, the Customer exclusively owns all rights, title and interest in and to all Customer Data. The Customer grants TÜV SÜD and its subcontractors a limited, personal, transferable, non-exclusive license to use the Customer Data for the sole purpose to and solely as required to perform the Services. TÜV SÜD may create copies of Customer Data in anonymized form (i.e. without information identifying the Customer, Authorized Users or any other individuals) and evaluate such anonymized data aggregated with anonymized data of other customers, including for statistical purposes as well as for improving and further developing the Services.

7.4 Suggestions

TÜV SÜD shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by the Customer, including Authorized Users, relating to the operation of the Services.

8 CONFIDENTIALITY

8.1 Definition of Confidential Information

As used herein, "**Confidential Information**" means any and all information disclosed by a Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of the Customer shall include Customer Data; Confidential Information of TÜV SÜD shall include the Services, in particular the Software Solution in any form or expression,

Terms of Use for the Chemical Data Management System – CDMS



any non-public Service Description, documentation or user manual, and any other information concerning the Services and its underlying technology; Confidential Information of each Party shall include the existence of these terms and conditions and the respective Orders, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party lawfully in possession of such information and without being subject to any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party without any use of the Confidential Information of the Disclosing Party and by employees of the Receiving Party who have not had access to the Confidential Information, as demonstrated by files created at the time of such independent development.

8.2 Protection of Confidential Information

Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of these Terms, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees who need such access for purposes consistent with these Terms and who are bound by confidentiality obligations materially comparable to the terms of this clause. The Parties agree that TÜV SÜD may use and have used and disclose Confidential Information by or to (i) its Affiliates, subcontractors and/or technical service providers, e.g. of hosting or outsourcing services, (ii) legal counsel, tax advisors, auditors and/or accountants, or (iii) third parties that are involved in corporate transactions or restructuring activities concerning TÜV SÜD to the extent this is reasonably required to conduct such activities, provided that such third party is bound by legal or professional confidentiality duties or has agreed to confidentiality obligations materially comparable to the terms of this clause 8.

8.3 Marketing

The Customer agrees that TÜV SÜD may use and disclose to third parties Customer's name and logo (a) on its customer list; and (b) with Customer's prior approval, not be unreasonable withheld or delayed, in other TÜV SÜD marketing materials.

8.4 Protection of Customer Data

Without limiting the above, TÜV SÜD shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. TÜV SÜD shall not (i) modify Customer Data except to delete, block, move or edit any Customer Data that it may determine, in its reasonable discretion, violates these Terms and/or applicable laws, (ii) disclose Customer Data except as compelled by law in accordance with clause 8.5 below or as expressly permitted by the Customer, or (iii) access Customer Data except to provide the Services and prevent or address service or technical problems, or at Customer's request in connection with customer support matters.

8.5 Compelled Disclosure

The Receiving Party may disclose Confidential Information of the Disclosing Party where (i) such disclosure is in response to a valid order of a court or any other governmental body having jurisdiction over the Disclosing Party or (ii) such disclosure is required by the Receiving Party, at its discretion, to defend the position of the Receiving Party in any criminal, civil or public proceeding/litigation or (iii) such disclosure is otherwise required by law. The Receiving Party shall give the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

9 WARRANTIES

9.1 Material Defects

In case of a material defect, TÜV SÜD will, in its sole discretion, remedy the material defect either by repair or replacement. The Customer shall notify TÜV SÜD immediately in writing (email or fax being sufficient) of all material defects that the Customer becomes aware of. The Customer agrees to cooperate with TÜV SÜD by providing any required information and documentation and to provide all other assistance that might be reasonable in order for TÜV SÜD to remedy the material defect.

9.2 Third Party Rights

If the Services become, or in TÜV SÜD's opinion are likely to become, the subject of a claim by a third party of infringement of its Intellectual Property Rights, TÜV SÜD may, at its option and expense, either (i) procure for the Customer the right to continue using the allegedly infringing materials or (ii) replace or modify the same so that they become non-infringing, or (iii) if both option (i) and (ii) are not reasonably possible in the particular case, terminate the respective Order and refund the Customer any related pre-paid Fees on a pro-rata basis for the remainder of the Service Term.

9.3 Reimbursement for Efforts

In the event TÜV SÜD proves that there was no material defect for which TÜV SÜD is responsible according to this clause 9, TÜV SÜD is entitled to request reimbursement for the efforts to remedy the alleged material defect on a time and material basis based on the standard rates of TÜV SÜD.

9.4 Customer's Warranties

Customer represents and warrants that (i) the performance of Customer's obligations under the respective Order and use of Services will not violate any applicable laws, (ii) the Customer is authorized and has completed all required corporate actions necessary to execute the respective Order and (iii) the Customer shall not carry out any act or omission that results in TÜV SÜD breaching any applicable laws.

9.5 Disclaimer

Unless explicitly stated otherwise, nothing in these Terms is to be understood as a no-fault guarantee.

Warranty obligations of TÜV SÜD shall not apply to the extent that a claim is based on (i) specifications or materials provided by the Customer, (ii) use of, or access to, Services by any person or entity other than Authorized Users, (iii) use of Services after TÜV SÜD notifies the Customer to discontinue its use due to an Infringement Claim, (iv) faulty or abnormal usage, overuse, improper production facilities or an inappropriate installation site, (v) any alteration of the Services by or on behalf of the Customer, (vi) incompatibility of the Services with the IT environment used by the Customer (unless such compatibility is explicitly agreed in the respective Order); and/or (vii) Customer's use of the Services together with software supplied by third parties unless this is otherwise permitted by TÜV SÜD in writing.

The Customer acknowledges that TÜV SÜD does not control the transfer of data over telecommunications facilities, including the Internet. TÜV SÜD does not warrant secure operation of the Services or that it will be able to prevent third party disruptions of the Services. The Customer acknowledges further that the Services may be subject to limitations, delays, and other issues inherent in the use of the internet and electronic communications outside of TÜV SÜD's reasonable control. TÜV SÜD is not responsible for any delays, delivery failures, or other damage resulting from such issues.

Except as expressly provided herein, neither Party makes any warranties of any kind, whether express, implied, statutory or otherwise, and each Party specifically disclaims all warranties, including any warranties of merchantability or fitness for a particular purpose, to the maximum extent permitted by applicable law.

10 INDEMNIFICATION

10.1 Indemnification by the Customer

The Customer will (i) indemnify and hold harmless TÜV SÜD from and against any and all third party claims finally awarded by a court of final jurisdiction or settled/acknowledged with Customer's prior written approval, and (ii) defend such claims at Customer's own cost, both in and out of court, to the extent this is related to a claim of a third party alleging that the Customer Data, or Customer's use of the Services in violation of the agreed Service subscription, infringes any third party rights, in particular but without limitation third party Intellectual Property Rights, or violates applicable laws. TÜV SÜD will (a) promptly give to the Customer written notice of the claim, (b) give the Customer sole control of the defense and settlement of the claim, and (c) provide to the Customer all reasonable assistance, at Customer's cost.

Terms of Use for the Chemical Data Management System – CDMS



11 LIABILITY

11.1 TÜV SÜD shall not be liable for any incidental, indirect, special or consequential loss or damage whatsoever, including but not limited to, loss of revenue, profits, contracts, business or anticipated savings, or loss of goodwill or reputation, whether foreseeable or not and whether arising from any act or omission on the part of TÜV SÜD in the provision of the Services.

11.2 TÜV SÜD's total liability under or in connection with the CDMS and the Services (including the tort of negligence) in any event (other than death or personal injury resulting from TÜV SÜD's negligence) shall not exceed the amount of Fees paid to TÜV SÜD in respect of the Services.

11.3 Damages for negligent breaches of material obligations shall be limited to the amount of the losses that one would typically anticipate. Material obligations are such obligations, the performance of which is a prerequisite for enabling the due and proper performance of the contract and on compliance with which the Customer does and may ordinarily rely. Any further claims for damages by the Customer for any negligent breaches of duty by TÜV SÜD are excluded.

11.4 To the extent that the liability of TÜV SÜD is excluded or limited, the same shall apply in respect of employees, workers, representatives and agents of TÜV SÜD.

12 TERM AND TERMINATION

12.1 Term

The Service Term shall be one (1) Contractual Year beginning from the Order Commencement Date and shall renew automatically for successive one (1) Contractual Year.

12.2 Termination for Cause

12.2.1 Without prejudice to any other rights or remedies which the Parties may have, either Party may terminate the respective Order for a material breach of the other Party upon thirty (30) calendar days' prior written notice if such breach remains uncured at the expiration of such period. Without limiting TÜV SÜD' other rights and remedies, any payment delay by the Customer exceeding 60 calendar days or any material breach of a provision in relation to TÜV SÜD' Intellectual Property Rights (in particular but without limitation clause 3) shall be deemed a material breach of the respective Order.

12.2.2 TÜV SÜD may terminate any Order for cause if it receives any direction, notification or instruction from any competent governmental authority to terminate the provision of the Services to the Customer.

12.2.3 The right of either Party to terminate for cause as provided for by applicable mandatory law remains unaffected.

12.3 Refund or Payment upon Termination

Upon any termination by TÜV SÜD for Customer's material breach, the Customer shall pay to TÜV SÜD as a compensation of any Fees for the remainder of the Service Term after the effective date of termination that would have become payable without such termination. Upon any termination for cause by the Customer, TÜV SÜD shall refund the Customer any prepaid Fees covering the remainder of the Service Term after the effective date of termination, if any. In no event shall any termination relieve the Customer of the obligation to pay any Fees payable to TÜV SÜD for the Services prior to the effective date of termination.

12.4 Return of Customer Data

For a period of 100 calendar days after the effective date of termination, TÜV SÜD will make available to the Customer for download a file of Customer Data. After such 100-day period, TÜV SÜD shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless otherwise required by applicable laws, delete all Customer Data in its systems or otherwise in its possession or under its control.

13 GENERAL PROVISIONS

13.1 Export and Import Compliance

The Customer is responsible for ensuring that it may use and access the Services as provided by TÜV SÜD in compliance with any applicable import or export laws. The Customer shall not import or (re-)export the Services in violation of any national or international law, in particular any export or import regulation of the European Union or the United States of America. Without limiting the foregoing, (i) each Party represents that it is not named on any government list of persons or entities prohibited from receiving exports, and (ii) the Customer shall not permit Authorized Users to access or use Services in violation of any export embargo, prohibition or restriction.

13.2 Statute of Limitation

Unless otherwise provided for by applicable mandatory law, all claims of the Customer shall become time-barred within twelve (12) months.

13.3 Relationship of the Parties

The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.

13.4 No Third-Party Beneficiaries

This Agreement is for the benefit of the Parties and their successors and permitted assigns and does not confer any rights or benefits on any third party, including any employee of a Party, any client of a Party, or any employee of a client of a Party.

13.5 Waiver and Cumulative Remedies

No failure or delay by either Party in exercising any right under these Terms or any Order shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

13.6 Severability

If any provision of these Terms or an Order is held by a court of competent jurisdiction to be contrary to law, invalid or unenforceable, then, notwithstanding such illegality, invalidity or unenforceability, the remaining provisions of these Terms and the affected Order shall continue in full force and effect and the application of that invalid or unenforceable provision shall be enforced to the extent permitted by law.

13.7 Subcontracting

TÜV SÜD may subcontract any part of its obligations under this Agreement to reliable subcontractors.

13.8 Assignment

The Customer may not assign any of its rights or obligations out of or in connection with this Agreement without the prior written consent TÜV SÜD (not to be unreasonably withheld). Notwithstanding the foregoing TÜV SÜD may assign any Order to any of its Affiliates, or to a third party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets unless such third party is a direct competitor of the Customer. The Customer hereby grants its consents to such assignment. TÜV SÜD will notify the Customer of any such assignment without undue delay.

13.9 Governing Law

To the extent that these Terms stipulate obligations in the relationship between the Customer and TÜV SÜD, the governing law shall be the laws of the country where the Order has been accepted by the respective TÜV SÜD company to the exclusion of the conflict of law rules of its private international law and to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

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