

GENERAL TERMS AND CONDITIONS OF TÜV TRUST IT GmbH, a TÜV AUSTRIA GROUP Company

Version 11/2018

1. Definitions

The following terms are used in these General Terms and Condition of Business with the following meaning:

The "Contractor" is the company in whose name the contract is signed.

The "Principal" is the customer who places the order with the Contractor.

2. Scope of application

2.1 Except when otherwise stipulated individually and in writing, contracts with the Contractor are based solely on the following terms and conditions. The Contractor does not recognise deviating conditions or terms to the contrary unless he has given them his express consent. Oral side-agreements are invalid.

2.2 The General Terms and Conditions of Business apply to all services agreed with and provided by the Contractor, including but not limited to appraisal, testing and consulting services, and to ancillary services and other ancillary obligations arising from and provided in the course of order execution.

3. Offers

All offers made by TÜV TRUST IT GmbH, a TÜV AUSTRIA GROUP company (TÜV TRUST IT), are made without obligation unless agreed otherwise.

4. Scope of Services

4.1 Unless agreed otherwise in writing, the services agreed are to be provided in accordance with generally accepted rules of technology and statutory provisions in force at the time the order was confirmed. TÜV TRUST IT company, is further entitled to decide for itself, unless agreed otherwise in writing, which method and mode of testing it deems appropriate.

4.2 TÜV TRUST IT is entitled with or without the principal's express consent to use the services of one or more sub-contractors to fulfil its contractual obligations.

4.3 It is not obliged to keep and return items, materials, samples, etc. submitted for testing once the findings have been accepted unless there are statutory requirements and/or contractual provisions to the contrary.

4.4 TÜV TRUST IT is not responsible for the accuracy or for checking the documents, information, security programs or security regulations on which tests are based unless agreed otherwise in writing. Also, in performing the work agreed it does not at the same time undertake to ensure the propriety (perfect condition) and functionality of either parts surveyed or tested or the entire facility, including configuration and choice of hard- and software, unless they are expressly stated to be part of the remit.

5. Performance Periods/Deadlines

If fixed performance periods are agreed, they do not begin until the principal has provided TÜV TRUST IT with all of the requisite documentation and has put into place all of the necessary preconditions, such as approvals. This shall also apply accordingly, even without the principal's express consent, to deadlines that are missed due to a delay for which TÜV TRUST IT is not responsible.

6. Cooperation

6.1 The Principal must provide the Contractor in full with all documents, information, security programs or security regulations that are of relevance for performance of the contract.

6.2 The principal will ensure that it and its agents or third parties cooperate with TÜV TRUST IT as required, in a timely manner and free of charge.

6.3 Such information, documentation, soft- and hardware, assistants, etc. as are required for service performance must be provided free of charge. The principal's cooperation activities must also comply with legal requirements, standards, security provisions and accident prevention regulations in force at the time.

6.4 The principal will bear all additional costs incurred as a result of work needing to be repeated or being delayed due to information that is delayed, inaccurate or incomplete or to cooperation activities not being undertaken properly. TÜV TRUST IT GmbH shall be entitled to charge for this extra expense even if the contract specifies a fixed or maximum price.

7. Confidentiality

7.1 TÜV TRUST IT GmbH and its employees are under obligation to observe confidentiality about all facts of which they become aware in the course of fulfilling the order.

7.2 Copies of all documents, drawings, plans, data and information provided as a computer file or in any other form that are of importance for contract performance may be made for the records of TÜV TRUST IT.

8. Copyright

8.1 All copyrights and co-copyrights to work undertaken by TÜV TRUST IT GmbH such as expert reports, test results, calculations, presentations and software programs, remain the property of TÜV TRUST IT. The principal may only use work undertaken as part of the contract for the purpose that was agreed.

8.2 The contracting partner shall be granted, subject

to the condition precedent of payment in full of the remuneration agreed for services provided by TÜV TRUST IT GmbH the irrevocable, but not exclusive and not transferable without prior written consent by TÜV TRUST IT to use any software (program) written by TÜV TRUST IT as a part of providing the service.

8.3 The contracting partner is only permitted to decompile object programs as defined in Section 69 e of the German Copyright Act (UrhG). Making copies of and changes to programs is only permissible within the scope defined in Section 69 d UrhG.

8.4 Any further changes require the prior written consent of TÜV TRUST IT. The contracting partner must notify TÜV TRUST IT in writing of any such changes, describing them in detail. If the contracting partner acquires copyright or related rights as a result of these changes, it herewith grants TÜV TRUST IT unlimited rights of use for these programs or program parts free of charge.

8.5 The contracting partner is required to keep records of any copies of programs written by TÜV TRUST IT and to submit them on request to TÜV TRUST IT.

8.6 Software documentation and manuals may only be copied or passed on with the prior written consent of TÜV TRUST IT, which will provide the contracting partner with software in object program form with appropriate user documentation. Unless expressly agreed, the contracting partner has no right to the provision of source programs/source codes.

8.7 The contracting partner is only entitled to use the software programs provided on one system (data processing) unit.

8.8 In the event of a retroactive cancellation of the contract all of the contracting partner's rights of use shall expire along with all third-party rights of use derived therefrom.

9. Billing for Work and Services

9.1 Billing for the services provided is based on the written agreement.

9.2 If no such express agreement in writing was made, services provided shall be billed in accordance with the price list of TÜV TRUST IT as valid at the time of performance.

9.3 If no written agreement to the contrary was made, fixed-price billing will be undertaken monthly as a proportion of the overall contract value in relation to the duration of service provision. For other types of price billing will be by stage of completion, as a rule monthly or after the provision of definable partial services.

9.4 TÜV TRUST IT is entitled to demand down- or advance payments.

10. Payment Terms

10.1 All payments are due without deduction on receipt of the invoice. Discounts are not granted.

10.2 If the amount invoiced is not credited to the account of TÜV TRUST IT as specified on the invoice within 30 days of the invoice date, interest for late payment will be charged at 9% p.a.

10.3 Failure to pay on time will incur a flat-rate charge of € 40.00. We reserve the right to claim for proven additional damage due to failure to pay on time. A flat-rate charge will count toward the cost thereof.

11. Liability

11.1 If the contracting partner claims damages from TÜV TRUST IT, the partner must provide proof of cause and unlawfulness.

11.2 If a company suffers damage due to a delay in contractually agreed delivery for which TÜV TRUST IT is to blame, its claim may not exceed 5% of the part of the order that is affected by the delay.

11.3 The following liability exclusions and limitations also apply to matters of tort if they clash with contractual claims and entitlements.

11.4 Liability of TÜV TRUST IT is ruled out for damage of any kind.

This exclusion does not apply:

- to damage caused by TÜV TRUST IT with deliberate intent or by gross negligence;
- in cases of slight negligence for damage to life, limb or health, but amounting to no more than the amount stated at 11.7 below.

11.5 With the exception of damage to life, limb or health, as well as deliberate intent and negligence, the liability of TÜV TRUST IT is further limited in all cases to damage that is typical for the contract and is foreseeable by TÜV TRUST IT when the contract is signed or the breach of duty takes place.

11.6 The liability exclusions and limitations listed at 11.1 to 11.7 above also apply to the company's liability for its executive bodies and employees and the personal liability of executive bodies and employees of the company.

11.7 Liability of the Contractor for simple negligence on the part of vicarious agents who are not its organs or its employees is ruled out as long as damage to life, limb or health is not involved. The Contractor's liability for vicarious agents who are not its organs or its employees and for misconduct by its organs and its employees insofar as it can be deemed liable under the provisions of these General Terms and Conditions of Business is otherwise limited for all individuals to €1,000,000 for material and financial damage per order and in total.

11.8 Liability for consequential damage, especially for loss of profits, unrealised saving, loss of earnings, other financial losses, interest losses, etc. is expressly excluded. Any residual statutory liability shall definitely be subject to all limitations listed under the heading "Liability".

12. Applicable Law, Place of Jurisdiction:

12.1 German law alone, excluding its conflict-of-law provisions, shall apply to this contract and the entire legal relationship between the contracting parties. It is further

agreed that the provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.

12.2 For all disputes arising from the contract it is also agreed that the appropriate court of law in Cologne shall be the sole place of jurisdiction, although TÜV TRUST IT shall be entitled to institute legal proceedings at other courts that are statutory places of jurisdiction for the contracting partner.