

General Terms and Conditions

of TÜV SÜD Asia Limited, Taiwan branch
(hereinafter referred to as *the Company*)



1. General Information and Definitions

- (1.1) In the event that an order for any services is placed, the Client shall accept the General Terms and Conditions. The General Terms and Conditions shall be applicable to all orders, resulting contracts and other arrangements, including all offers made or services provided by the Company or any of its fellow subsidiaries. They are not applicable if and as far as they are in conflict with the regulations on services performed on behalf of governments, government bodies or any other public entity, or they are in conflict with mandatory provisions of local law. The Client's placement of orders as well as the conclusion of contracts with the Company shall be regarded as awareness and acceptance of these General Terms and Conditions.
- (1.2) The Company strongly recommends any Client or potential Client to read the full text of these General Terms and Conditions prior to placement of any order to or conclusion of any contract with the Company. The General Terms and Conditions apply exclusively. Any general terms and conditions of the Client which deviate from, conflict with or supplement these General Terms and Conditions will become part of the contract only if and to the extent that the Company has explicitly approved their application. This approval requirement applies in any event and even if the Company for example renders the services to the Client without reservation despite being aware of the client's general terms and conditions of business. Ancillary agreements, promises and other statements made on the part of the Company staff or the experts called upon by them shall be binding only if they are expressly confirmed by the Company in writing. This shall also apply to any modifications of this clause.

2. Provision of Services

- (2.1) With due care and skill, the Company will provide services according to Client's specific instructions as made available by the Client. In the absence of Client's specific instructions, the following is deemed as instructions given to the Company:
- The terms of any standard specification sheet or standard order form provided by the Company; and/or
 - Any relevant usage, practice or trade custom; and/or
 - Such methods the Company considers technically, operationally and/or on financial grounds appropriate.
- (2.2) No other party is entitled to give any instructions particularly on the scope and type of the services or the reports delivered, or on the resulting certificates (the "Reports of Findings"), unless the Company receives prior written instructions to the contrary from the Client. The Client hereby irrevocably authorizes the Company to deliver Reports of Findings to a third party where so instructed by the Client or, at the Company's discretion, where it implicitly follows from circumstances, trade custom, usage or practice.
- (2.3) The Information stated in the Report of Findings is derived from the results of inspection or testing procedures carried out in accordance with the instructions and/or Company's assessment of such results on the basis of any technical standards, trade custom or practice, or other circumstances which should in Company's professional experience be taken into account.
- (2.4) Reports of Findings issued after the testing of samples refer the Company's opinion only on samples under testing and not to the lot from which the samples were drawn.
- (2.5) Client agrees that the Company's sole responsibility is to be present at the time of the third party's intervention and to forward the results, or confirm the occurrence of the intervention, in case Client requests the Company to witness any third party's intervention. Client agrees that the Company will use the test methods for analysis as requested in the request form, and if none is stated in the form, the Company will choose the appropriate test methods for analysis.
- (2.6) The Reports of Findings issued by the Company will reflect the facts as recorded by it at the time of its intervention only and within the limits of the instructions received or, in the absence of such instructions, within the limits of the alternative parameters applied as provided for in Clause 2.1. The Company is under no obligation to refer to, or report upon, any facts or circumstances, which are outside the specific instructions received or alternative parameters applied.
- (2.7) The performance of all or part of the services may be delegated to an agent or subcontractor by the Company. The Client authorizes the Company to disclose all information necessary for such performance to the agent or subcontractor.
- (2.8) Documents reflecting engagements contracted between the Client and third parties or third party documents, e.g. sales contract copies, letters of credit, bills of lading, etc. should be made available to the Company. These are considered to be for information only, and do not extend or restrict the scope of the services or the obligations accepted by the Company.
- (2.9) The Company agrees that, by providing the services to the Client, it neither takes the place of Client or any third party, nor otherwise assumes, abridges, abrogates or undertakes to discharge any duty of the Client to any third party or that of any third party to the Client. Also, it does not release the Client or any third party from any of their obligations.
- (2.10) Depending on the nature of each sample, all samples given to the Company shall be retained for a maximum of 3 months or for such other shorter time period as the nature of the sample permits, and then sent back to Client or otherwise disposed of at the Company's discretion. After that time the Company will not be responsible for the samples. Storage of samples for more than 3 months shall incur a storage fee payable by the Client. If samples are returned to the Client, the Client will be billed a handling and freight fees. Special disposal charges will be billed to the Client if incurred.

3. Client's Obligations

- The Client shall:
- ensure that all required supporting documents, information and instructions as submitted are accurate, truthful and complete. These information are to be submitted in a timely not later than 2 working days from the date of which the services are requested by the Client
 - ensure to give all necessary access for the Company's representatives to the premises where the services are to be performed and to take all necessary steps to eliminate or remedy any obstacles to, or interruptions in the performance of the services;
 - make available any special equipment and personnel necessary for the performance of the services, if required;
 - ensure that for the safety and security of working conditions, sites and installations, all necessary measures are taken during the performance of services. In this respect, the Client will not rely on the Company's advice whether required or not;
 - inform the Company of any known hazards or dangers, actual or potential, associated with any order, samples, testing or any other service rendered by the Company well in advance. Those are, but are not limited to the presence or risk of radiation, environmental pollution or poisonous or noxious or explosive elements or materials;
 - fully exercise all its rights and discharge all its liabilities under any relevant sales or other contract with a third party.

4. Fees and Payment

- (4.1) All Fees not agreed on between the Company and Client at the time the order is placed or a contract is concluded shall be determined by the Company's Schedule of Fees (which are subject to change). All applicable taxes shall be paid by Client, as far as mandatory laws do not provide otherwise.
- (4.2) Unless a specific period is established in the invoice, the Client shall pay upon receiving the invoice, but not later than 30 days from the relevant invoice date or within such other period as may be established by the Company in the invoice (the "Due Date").
- (4.3) The Client shall not be entitled to retain or defer due payment of any sums to the Company on account of any dispute, counter claim or set-off against the Company. The Company reserves the right to retain or defer any due payments if any dispute arises with or it raises any counter-claim against the Client. The Company is entitled to set off due payments against payments of the Client.
- (4.4) For the collection of unpaid fees, the Company may decide to bring action in any court with competent jurisdiction. The corresponding collection costs, including attorney's fees and related costs, shall be borne by the Client, as far as the mandatory local law does not provide otherwise.
- (4.5) In case of any unforeseen problems or expenses arise while carrying out the services, the Company informs the Client. In such cases, the Company shall be entitled to charge additional fees to cover extra time and to invoice extra costs necessarily incurred to complete the services.
- (4.6) If the Company is unable to perform all or parts of the services for any cause whatsoever beyond the Company's control, including the failure by Client to comply with any of its obligations provided for in the foregoing Clause 3, the Company shall nevertheless be entitled to payments of:

- The amount of all non-refundable expenses incurred by the Company; and
- A proportion of the agreed fee equal to the proportion of the services actually carried out.

5. Suspension or Termination of Services

In any case mentioned below, the Company shall be entitled to either suspend or terminate the provision of the services immediately and without any liability:

- Failure by the Client to comply with any of its obligations under these General Terms and Conditions and such failure is not remedied within 10 days after a notice of such failure has been delivered to the Client; or
- Any suspension of payment, arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by Client.

6. Liability and Indemnification

- (6.1) Limitation of Liability.
- Clients seeking a guarantee against loss or damage should obtain appropriate insurance. The Company is neither an insurer nor a guarantor and disclaims all liability in such capacity.
 - Reports of Findings are issued on the basis of the information, documents and/or samples provided by, or on behalf of the Client and solely for the benefit of the Client who is obliged to act on the basis of such Reports of Findings. Neither the Company nor any of its staff, agents or subcontractors shall be liable to the Client nor to any third party for any actions taken or not taken on the basis of such Reports of Findings, or for any incorrect results arising from unclear, erroneous, incomplete, misleading or false information provided to the Company.
 - For any delayed, total or partial non-performance of the services arising directly or indirectly from any event beyond the Company's control, including failure by Client to comply with any of its obligations hereunder, the Company shall not be liable.
 - The liability of the Company in respect of any claim for loss, damage or expense of any nature and howsoever arising shall in no circumstances exceed a total aggregate sum equal to 10 times the amount of the fee paid in respect of the specific service which gives rise to such claim, and shall in any case not exceed the equivalent of 25,000 EUR in TWD.
 - For any indirect or consequential loss (including loss of profits), the Company shall not have any liabilities.
 - In case of any claim, the Client must give written notice to the Company within 30 days of discovery of the facts with all necessary documents to justify such claim. In any case, the Company shall be discharged from all liability for all claims for loss, damage or expense unless a lawsuit is brought within three years from:
 - the performance date of the Company for its services which refers to the claim; or
 - the date when the service should have been completed in the event of any alleged non-performance.
- (6.2) Indemnification: Against all claims (actual or threatened) by any third party for loss, damage or expenses of whatsoever nature including all legal expenses and related costs and howsoever arising relating to the performance, purported performance or non-performance of any services, the Client shall guarantee, hold harmless and indemnify the Company and its officers, employees, agents or subcontractors.

7. Obligation of Confidentiality, Copyright, Data Privacy Protection

- The Company shall be authorized to copy and make file copies of written documents, which have been made available to it for review and which are important for processing the order.
- In as far as expert opinions, test results, calculations and other documents or work products that are protected by copyright (hereinafter referred to as "Work") are prepared within the scope of contractual performance, including in electronic form and drafts, the Company shall grant the Client a simple, non-transferable and non-licensable right to use, insofar as this is necessary and in accordance with the contractually presupposed purpose. Other rights of the Work shall not be granted or transferred; in particular, the Client may use any such Work only in complete and otherwise unchanged form. In particular, any publication or duplication for marketing purposes shall require the Company's prior consent in writing.
- The Company and its staff which may be called in shall not disclose or use trade and business matters about which they have gained knowledge during the performance of their work without proper authorization, or unless instructed by a court or authorized body (e.g. regulatory authority, accreditation body or certification scheme owner) or otherwise legally required.
- For all nonpublic personal information, protected health information, other personal information, and personal data as each of those terms is defined in or by application of each respective privacy regulations under Governing Law (collectively, the "Personal Data"), the Client confirms that the Personal Data has been collected and processed and that consents required to provide the Personal Data to the Company have been obtained in accordance with the privacy regulations under Governing Law; and the Company shall only store, process, transfer and use the Clients' Personal Data for the proper implementation of orders, contracts and for its own purposes and shall observe the applicable privacy regulations. To this end, the Company will also use automated data processing systems.

The Client shall indemnify, defend and the Company harmless from and against any and all claims, liabilities, losses, reasonable expenses (including reasonable attorneys' fees), fines, penalties and/or damages actually incurred by or asserted against the Company in connection with the processing of the Personal data as stipulated in 7.4.

8. Force Majeure

In the event that either party is unable to perform its obligations to the other party in whole or in part or not in a timely manner due to an unusual and unforeseeable event beyond the control of that party (force majeure event), the affected obligations of the party relying on the force majeure event shall be suspended for as long as the force majeure event and its consequences persists; any obligations of the other party to provide consideration during this time shall lapse. Claims of the other party, in particular claims for damages, shall not arise in this respect. The party invoking force majeure shall, however, be obliged to inform the other party without delay in text form of the event, the suspended performance obligations and the expected duration of the suspension of the performance obligations. The same shall apply if, by observing a reasonable duty of care, the party invoking force majeure recognizes, whilst the performance obligations are suspended, that the notified probable duration of the suspension will change significantly. If the force majeure event lasts longer than six months from the first information to the other party, both parties shall be entitled to withdraw from the contract. The right of withdrawal shall be replaced by a right of termination for continued obligations.

9. Export control and embargoes

- The Company does not have the obligation to provide services in due time 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, the Company agrees to notify the Client without undue delay about the fact that services may not be provided (impediment to performance).
- In the event that the Company is prevented from timely provision of services because permits, licenses or other official procedures imposed by restrictions under export control and embargo law need to be obtained, the delivery and completion deadlines agreed by the Company and the Client with binding effect shall be adequately extended by the duration of the delay caused thereby. In such a case, the Company agrees to notify the Client without undue delay in textual form about the delay.
- Where the impediment to performance pursuant to Section 9.1 or the delay pursuant to

Section 9.2 lasts longer than six months beyond the date of initial notification of the Client by the Company, either party has the right to rescind the contract. In case of contracts for the performance of continuing obligations, either party has the right to terminate the contract instead. The Client may not assert any additional claims based on Sections 9.1 and 9.2, including, but not limited to, claims for damages.

- (9.4) The Client has the obligation to observe the export control and embargo law restrictions, as applicable and in effect at the time, when making use of or passing on services provided by Company. The Client has the obligation to obtain any permits or licenses that may have to be obtained from the competent authorities, if and where necessary. In case of a violation of export control and embargo restrictions by the Client, the Company has the right to rescind the contract. In case of contracts for the performance of continuing obligations, the Company has the right to terminate the contract instead.
- (9.5) To the extent requested to do so, the Client has the obligation to provide the Company, without undue delay, with any and all information on the intended use, final recipient and end use of the services to be provided by the Company.
- (9.6) The Client agrees to indemnify the Company to the full extent against any and all claims that may be asserted against the Company by authorities or other third parties on the grounds of intentional or negligent violations of export control and embargo re-strictions by the Client and undertakes to indemnify the Company for and against any and all losses sustained, damage suffered and expenses incurred as a result.

10. Miscellaneous

- (10.1) The validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired, even if any one or more provisions of these General Conditions are found to be illegal or unenforceable in any respect.
- (10.2) Client shall not directly or indirectly entice, encourage or make any offer to Company's employees to leave their employment with the Company, during the course of providing the services and for a period of one year thereafter.
- (10.3) Use of the Company's corporate name or registered marks for advertising purposes is not permitted without the Company's prior written authorization.

11. Governing Law, Jurisdiction and Dispute Settlement

- (11.1) Unless specifically agreed otherwise, all disputes arising out or in connection with contractual relationship(s) hereunder shall be governed by the applicable laws and regulations of the Republic of China.
- (11.2) Place of performance for any obligation arising out of this contract shall be Taipei, the Place of the Company.

12. Languages

In the event of any discrepancy between the English and the Chinese version of these General Terms and Conditions, the English version shall prevail.