

# General Terms and Conditions

## TÜV SÜD Japan

### 1. General

1.1 TÜV SÜD Japan Ltd (hereinafter "TSJ") provides services including testing, inspection, evaluation, certification, consulting, training and its related services.

1.2 Should an order be placed for such services, the customer shall accept TSJ's General Terms and Conditions, pertinent regulations including Testing and Certification Regulations of TÜV SÜD Group, and rules and regulations stipulated by the relevant TÜV SÜD certification body from which certificates are requested, price list for the respective sector at which the customer places an order. The order and TSJ's General Terms and Conditions shall form the contract between the parties. Deviating terms and conditions of business of individual customers cannot be recognized as a matter of principle. Provided that ancillary agreements, promises and other statements by TSJ employees or officially authorized experts called in by TSJ shall only be considered binding if expressly confirmed by TSJ in writing.

### 2. Contractual Performance

2.1 Orders accepted by TSJ shall be executed - insofar as contrary agreements have not been made in writing - in accordance with the customary handling practiced by TSJ. No responsibility shall be assumed for the correction of the programs and regulations on which services are based unless otherwise agreed and put in writing.

2.2 The contract between TSJ and the customer shall be executed when the written quotation or order form issued by TSJ arrives at TSJ, after the customer (including the person in charge) signed it in the designated space and sent it to TSJ (regardless of the method such as by mail, facsimile, and email or whether it is an original document or a copy).

2.3 The scope of contractual activities to be performed by TSJ 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, TSJ is entitled to demand a proportion of the contractual remuneration equal to the proportion (if any) of the services/work/expenses actually carried out.

2.4 The contractual services of TSJ shall be deemed as having been furnished and completed with the provision of:

- Respective audit reports for the customers in the management service sector.
- Respective final reports or expert opinions and -- where applicable-- the issuance of certificates in the mobility, industry, management system and product safety
- Execution of the respective seminars, trainings and meetings.
- Respective test data, reports or expert opinions according to the

conditions of each contract of EMC, Telecom, Product Safety, Evaluation and Reliability.

### 3. Deadlines, Delayed Performance, Impossibility of Performance

3.1 The deadlines for contractual performance quoted by TSJ shall be binding only if this has been explicitly agreed upon in writing. If there is any condition concerning readjustments or changes in deadlines agreed upon between the customer and TSJ, such condition shall apply.

3.2 Should TSJ, 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.

Any claims for damages shall be governed by the provisions outlined in Section 5.

3.3 Should TSJ's customer, in the case of delayed performance, grant a reasonable additional period within which performance is to take place and should TSJ 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 TSJ shall have the right to withdraw from the contract, in case TSJ is no longer possible to meet the customer's changes or requests.

### 4. Warranty

4.1 The warranty granted by TSJ covers only the services agreed in accordance with Section 2.3.

Warranty regarding the proper condition and overall functioning of the plants to which the inspected or tested parts belong shall therefore be excluded. In particular, TSJ shall not be responsible for the design, choice of materials and construction of the plants examined insofar as such questions do not form the express subject matter of the order. Neither the warranty nor the legal responsibility of the manufacturer shall be limited or taken over in the latter case as well.

4.2 Any warranty given by TSJ shall initially be restricted to the services to be completed within a reasonable time limit.

4.3 The warranty period shall amount to one year starting from passage of the risk, i.e. as of receipt of the works. If rework is performed under the warranty and should such rework fail, i.e. be impossible or unacceptable for the customer or be unjustifiably refused or delayed by TSJ, the customer shall be entitled either to a reduction in price or rescission of the contract.

### 5. Liability

5.1 TSJ and TS Group (hereinafter "TÜV SÜD") shall only be liable for damages if TÜV SÜD has caused any damage as a result of an intentional or grossly negligent act or if TÜV SÜD has negligently breached a substantial contractual obligation (material obligation). TÜV SÜD's liability for such cases shall be limited to ordinary, direct and actual damages and will exclude any special or indirect damages. Further, in the event that TÜV SÜD is in



Japan

breach of any substantial contractual obligations, TÜV SÜD 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 TÜV SÜD is liable under Section 5.1 above for damages caused as a result of having breached, by an act of negligence to a substantial contractual obligation, its liability shall be limited in each single case to:

- ¥ 100,000,000 for property damage (movable and immovable goods only),
- ¥ 25,000,000 for any other monetary damages.

5.3 TÜV SÜD 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. This Substantial contractual obligation is the same with the TSJ`s obligation to the work/performance clearly stated in the quotation and/or order sheet.

5.5 The liability exemption contained in Sections 5.1-5.3 and/or the liability limits shall not apply to damage to life, person, or health.

5.6 Any person making claims under this contract shall without delay inform TSJ in writing about any potential damage for which TÜV SÜD could be liable.

5.7 If claims for damages against TÜV SÜD 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 TÜV SÜD.

5.8 Any claims for damages under this provision shall be time-barred after one year from the completion of TSJ`s service under Section 2.4.

5.9 Notwithstanding this provision, the customer shall be obliged to obtain standard insurance cover for direct or indirect damage.

## 6. Terms of Payment and Prices

6.1 Unless a fixed price or other calculation basis has been explicitly agreed upon, services shall be billed in accordance with the fees outlined in the schedule of services and prices valid at the time of contract conclusion. In the absence of a valid schedule of services and prices, contractual provisions must be agreed on a case-by-case basis.

6.2 TSJ is entitled to request reasonable advance payments and/or demand a proportion of the contractual remuneration equal to the proportion (if any) of the services/work/expenses actually carried out. Such partial invoices shall not require any explicit statement to that effect in the written quotation or order form at the conclusion of the contract. Sending and receiving such partial invoices shall not be construed as the completion of the contractual activities or all invoices for such activities having been sent by TSJ.

6.3 The fees invoiced in accordance with the preceding sub clause and/or the final invoice after acceptance of the works shall be payable within 30 days after billing, insofar as no other agreement has been made.

TSJ shall be entitled to charge interest of 14 percentage points above the basic interest rate during any delay on the part of the

customer to pay an open invoice. If no particular date of payment is agreed, the customer shall become in arrears by way, on 30 days after receipt of the invoice at the latest.

If a particular date of payment is agreed upon based on the calendar, then the customer shall become in arrears at the end of the payment term.

6.4 If a customer becomes in arrears, the customer shall automatically be subject to acceleration with regards to all obligations including those relating to other contracts without any demand by TSJ and shall immediately pay the amount due in full together with the late payment penalty over the period from the next day of the event of default on the principal to the day on which all obligations are paid, calculated in accordance with the preceding sub clause.

6.5 Fees shall be subject to the amount of value added tax valid at the time in question. The amount of value added tax shall be shown separately on the invoice.

6.6 Objections to TSJ invoices shall be communicated and justified in writing within a fixed period of 14 days after receipt of the invoice. When no objection has been raised during this period, it shall be recognized that the customer has accepted the invoice.

## 7. Termination

If the customer falls under any of the following items, TSJ may immediately terminate the contract without following any procedure such as giving prior notice. In this case, TSJ is entitled to demand a proportion of the contractual remuneration equal to the proportion (if any) of the services/work/expenses actually carried out and the compensation for any loss or damage incurred by TSJ as a result of the termination:

- 1) where the customer has breached these General Terms & Conditions;
- 2) where the customer has become in arrears as prescribed in Section 6.3;
- 3) where the customer has been subject to an execution such as attachment, provisional attachment, temporary restraining order such as provisional disposition, or a penalty for delinquency in the payment of taxes and other public charges; or a petition for the commencement of bankruptcy proceedings, civil rehabilitation proceedings, corporate reorganization proceedings, or special liquidation proceedings has been filed by a third party or by the customer itself for the customer;
- 4) where the operations of the customer have been suspended or the business license or registration of the customer has been rescinded by the supervisory authority;
- 5) where there are events or circumstances that indicate that the financial position of the customer has deteriorated or is likely to deteriorate; or
- 6) where there are circumstances similar to those listed in the preceding items that, as determined by TSJ, have made it difficult for TSJ to maintain the contract.

## 8. Compliance and No relation with anti-social forces

8.1 Customer hereby confirms its awareness of the TÜV SÜD Code of Ethics, available online at: <https://www.tuev-sued.de/company/tuev-sued-group/code-of-ethics>

8.2 Customer hereby undertakes all necessary actions in order to ensure that any of its employees comply with all applicable laws and refrain from any illegal activities within their professional activity. Customer hereby represents to TSJ that neither it nor any of its employees have committed any act in connection with this agreement that may constitute bribery, nor shall Customer or its employees commit such acts in the future. Customer hereby represents to TSJ that it shall refrain from all activities, which could constitute a criminal act of fraud, breach of trust, criminal offence



Japan

under insolvency law, criminal offence under unfair competition law, granting of an undue advantage or bribery.

8.3 TSJ and the customer represent that neither party (including representatives, officers, persons effectively controlling the management of either party, and full-time and part-time employees of either party) falls, and covenant that neither party will fall in future, under anti-social forces including organized crime groups, members or quasi-members of an organized crime group, organized crime-related companies, corporate racketeers, those forces claiming to be a political, religious, or social activist, and special intellectual violence organizations (hereinafter "ASF") or a person for whom 5 years have not passed since he/she was no longer an ASF.

8.4 If either party has determined that an investigation would be necessary to determine whether the other party falls under the preceding sub clause, TSJ and the customer shall cooperate with each other in accordance with the request of the other party in order to complete the investigation and shall submit necessary materials to each other.

8.5 In the event that TSJ has discovered that the customer fails under an ASF or in the event of any violation of the provision in this clause attributable to Customer's fault, the Customer shall be subject to acceleration with regard to all obligations to TSJ and TSJ may claim from the Customer immediate payment of all obligations in full without following any procedure such as giving prior notice. In this case, TSJ shall not be obligated to perform any of its obligations owed to the Customer and may terminate all contractual agreements with Customer, or withdraw from such agreements without following any procedure such as giving prior notice. In the event that TSJ is held liable by any third party based on a violation of any undertaking in this section by Customer, Customer hereby agrees to indemnify TSJ from any such claims. In addition, Customer hereby agrees to reimburse TSJ for all damages related to such third-party claim.

TSJ shall not be liable for the compensation for any loss or damage incurred by the customer as a result of the termination pursuant to this Sub clause.

## **9. Obligation to Maintain Secrecy, Copyright, Data Protection**

9.1 TSJ shall have the right to copy and file any written documents submitted for perusal which are important for performance of the order.

9.2 Insofar as expert opinions, test results, calculations, etc. are prepared in the course of processing the order and which are subject to the protection of copyright, then TSJ shall grant a simple, non-transferable right to use to the customer, insofar as this is necessary in accordance with the contractually presupposed purpose. Other rights shall not be transferred; in particular, the customer shall not be entitled to modify expert opinions, test results, calculations or the like (edit) or to make use of such outside of his business premises.

9.3 TSJ, its employees, and the expert engineers called in by TSJ shall not, without authorization, disclose or turn to use any confidential information which they receive from their customer. Confidential information shall mean only information received by TSJ from the customer which is clearly marked "Confidential".

9.4 TSJ shall process and use personal data only for its own business within the TÜV SÜD Group. In addition, TSJ may use personal data for its activities, and in order to meet the same level of data security requirements of the Privacy Data Protection Act (Special Law in Japan) TSJ takes technical and organizational measures which ensure the security of the data and the data processing operations.

## **10. Place of Jurisdiction, Place of Performance, Applicable Law**

10.1 The place of exclusive jurisdiction for the assertion of claims by both contractual partners shall be Tokyo.

10.2 The contractual relationship and all legal relations arising there from shall be exclusively governed by Japanese law as applicable between domestic contractual parties under exclusion of the United Nations' Convention on Contracts for the International Sale of Goods (CISG).