

General Terms and Conditions of TÜV Middle East WLL
P.O. BOX 26674, Manama, Bahrain

I. Validity of these Terms and Conditions

1. The General Terms and Conditions shall apply to all kind of services (including, but not restricted to Certification, Training, Inspections, Testing and Consultancy Services) rendered by TÜV Middle East WLL, Bahrain and for all duties arising from the obligation towards the customer. Our terms and conditions shall also apply for all future business relations with entrepreneurs and legal entities under public law and shall form an integral part of any agreement entered into by the customer with us based on any kind of service contract.
2. Subject to any deviating agreements in individual cases, contracts may only be concluded with us in accordance with the following provisions; when placing an order the customer declares he agrees to our terms and conditions. Any contrary or deviating conditions on the part of the customer shall not be binding on us if we have not expressly recognized them; this must be done in writing. Our terms and conditions shall also apply if we render our service without reservation in knowledge of contrary or deviating conditions on the part of the customer.

II. Conclusion of Contract

1. A contract with us shall be deemed to have been concluded only when the customer has accepted our offer including these General Terms and Conditions without reservation or we send out our written acknowledgement of the order or we commence performance of the service. If we issue a written acknowledgement of an order this shall determine the content and scope of the contract where nothing different has been expressly agreed.
2. Any changes, ancillary agreements and additions, and any agreements on quality or the assumption of warranties must be expressly confirmed by us in order to be effective; this must be done in writing. This also applies with respect to cancellation of the present clause...

III. Performance of Order and Customer's Obligations to Cooperate

1. Provided nothing different has been expressly agreed in writing, we shall only be obliged to render the exact services provided for in the contract; we shall render such services according to the generally accepted technical rules and standards and the statutory specifications as applicable in Bahrain, United Arab Emirates, Kuwait, Qatar, Oman & Syria.
2. For any damage to or destruction of customer's objects due to the proper performance of our service we shall not be obliged to provide a compensation or replacement transport and, where relevant, return of customer's objects shall be implemented at the customer's expense and risk, but return shall only be implemented at the customer's express request. Where objects are retained by us, our liability shall be limited to the duty to exercise due care and attention.
3. The customer shall inform us completely of all facts relevant to the performance of our service. We are basically not obliged to check that the data, information or other matters provided by the customer are correct and complete where there is no specific reason to do so or give the circumstances of the individual case or where the order does not expressly cover this. We do not assume any guarantee for the correctness of the safety rules, regulations and programmes on which our inspections/tests and appraisals are based, unless such rules, regulations or programmes come from us or are themselves a subject of the inspection order. Nor do we bear any responsibility for the good order and functioning of the objects inspected with respect to technical safety where this is not expressly a subject of the order.
4. Where the customer must perform one or more actions of a cooperative nature to enable us to perform our service, he shall do this in good time and at his own expense; expenses will only be reimbursed if this has been expressly agreed; this must be done in writing. Where he does not fulfill his obligation to cooperate, does not do so in good time or does not do so in a proper fashion, we shall be entitled to charge him for the extra expense thus incurred. The right is reserved expressly to enforce any more extensive legal claims.
5. We are entitled to have the services which we have to provide performed by a subcontractor who has been carefully sought out by us and who appears to us to be suitable without the need to obtain the approval of the customer.
6. If we work outside its registered office, the customer shall be obliged to take all measures needed to ensure safety of movement where nothing different arises from the nature of the matter concerned or from an agreement with the customer. We shall be entitled to refuse performance of the service as long as the necessary measures have not been taken.

IV. Periods and Dates

1. Periods and dates shall always be as per the Gregorian calendar and be taken as approximate where no binding agreement has been made in individual cases; this must be done in writing. Where such periods and dates are not binding, we shall only be in default if the customer has previously set us a reasonable deadline in writing for performance of the service owed and such request has been fruitless. In any case periods set shall only commence with the complete performance of all actions of cooperation due from the customer and – where a down-payment has been agreed – from the receipt of such payment. Any subsequent requests for changes or belated actions of cooperation on the part of the customer shall mean an appropriate extension of the performance times equal to the delay caused by the customer for not being cooperative.
2. We shall not be liable for any damages as a result of any delay or failure of delivery of Services due to any circumstances beyond the reasonable control of us, including, without limitation to war, warlike conditions, terrorist attacks, freight embargoes, storms, acts of God, equipment break down, riots, civil commotion, floods, earthquakes, any strike, lock-out or other form of industrial action, governmental orders or restrictions, hostilities, mobilisation, blockade, revolution, looting, fire, leakage or bursting of tanks or pipes, acts or omissions of customer or any of its representatives, fire, accident, strikes, slowdown, delay in transportation or inability to obtain necessary labor, materials, fuel at manufacturing locations.
3. In the event of any such delay, we are discharged from its obligation to deliver and provide its Services and the date of delivery shall be extended for a period equal to the time lost by reason of delay and if such delay is caused by an act or omission of the customer or any of its representatives, we shall be reimbursed for any additional costs arising from such delay.
4. If the customer delays acceptance or violates any other obligation to cooperate, we shall be entitled to demand compensation for any damage we may suffer, including any extra expenses incurred.

V. Acceptance

1. Where our service requires acceptance, the customer shall be obliged to do this in writing. Minor defects which do not seriously impair the suitability of the service for the purpose contractually laid down shall not entitle the customer to refuse acceptance, without prejudice to his right to enforce statutory claims with respect to defects. In the case of part-services which are self-contained we may also demand part-acceptance.
2. If the customer refuses acceptance while violating sub clause 1 of the present clause, acceptance shall be deemed to have been performed nevertheless.

VI. Prices and Payments

1. The decisive criterion for Invoicing TÜV ME Services is the price quoted by us or otherwise the price usually charged by us for the service concerned, plus statutory value added tax where applicable. Our invoices shall be due for payment without discount and free of charges in accordance with an agreed payments schedule, and otherwise within two weeks of receipt of the invoice. If cheques are accepted in individual cases on the basis of express agreements, this shall only be done for the purpose of payment and also without discount.
2. Where no fixed price has been agreed and it is established during the performance of a service that the costs will exceed the amount quoted to the customer as an estimate by more than 10%, we shall notify the customer of this and the customer shall be obliged to pay such excess amount.
3. If we have a number of amounts receivable from the customer, we shall determine against which debt the payment is to be set. The customer shall only be entitled to offset if his counterclaims are established with legal effect, are undisputed or are acknowledged by us in writing.
4. If it becomes evident after conclusion of the contract that our claims towards the customer are jeopardized by the customer's inadequate ability to pay, we shall be entitled to agree to perform outstanding services only against advance payment or provision of security and to withdraw from the contract once a deadline set for this purpose has passed without result; number 2 sentence 3 of the present section shall apply accordingly.

VII. Notice of Defects and Withdrawal

1. If we provide a defective service the customer shall give us the opportunity to attempt at least twice to rectify the service within reasonable periods where this is not unreasonable in the individual case or there are no special circumstances which justify immediate withdrawal on the part of the customer, taking into account the interests of both sides. We shall in any case have the choice between rectifying the defect and supplying a defect-free item.
2. Regardless of the cases described in sub clause 1, the customer shall only be entitled to withdraw if we are responsible for the violation of obligation on the basis of which the withdrawal is to be explained.
3. We shall only assume a warranty for fulfillment of estimates or forecasts where this has been expressly agreed.

VIII. Liability

1. We are basically only liable to pay compensation for willful and grossly negligent action, for any culpable violation of major obligations, where a quality warranty has been assumed. The Maximum limit of our liability is € 2,600,000 only.
2. The customer is in particular obliged to back up data and programs at intervals appropriate to the application on a regular basis, at least once a day, in machine-readable form and hence to guarantee that such data and programs can be restored with a reasonable amount of effort.
3. Liability for damage arising from impairment of life, physical injury and impairment of health shall be unaffected by the foregoing liability provisions.

IX. Statutory limitation

1. With respect to entrepreneurs and legal entities under public law contractual claims arising from violations of obligations shall be limited to one year from the beginning of the statutory limitation period. This shall not include claims concerning defects for which the statutory limitation period is one year or more.
2. The statutory limitation periods shall remain unaffected by the foregoing provisions in the following cases: (i) for damage arising from impairment of life, physical injury or impairment of health; (ii) for other damage based on willful or grossly negligent violation of obligation by ourselves, our statutory representatives or persons assisting us in the performance of our work; (iii) for the customer's entitlement to withdraw from the contract in the case of a violation of obligations for which we are responsible and which is not due to a defect in the object of purchase or the works.

X. Copyright

1. Our work may not be passed on or used commercially beyond the purpose laid down by contract, and in particular it may not be published, without prior written permission. The customer bears sole and exclusive responsibility for compliance with the statutory provisions applicable for the use of our work and/or Services (especially the provisions of competition law), and in particular he is responsible for the content of any advertising; he must indemnify us with respect to all and any claims by third parties and all necessary expenses these involve.
2. Subject to any deviating agreements in individual cases, we grant the customer a simple right of use in each case of our services covered by copyright, where this is necessary for the contractually compliant use of the services which are the subject of the contract.

XI. Placement of performance and assignment

1. The place of performance for all services is the registered office of our company in Manama, Bahrain.
2. Assignment or pledging of claims to which the customer is entitled as a result of the business relationship with us is hereby excluded.

XII. Place of jurisdiction and applicable law

1. The rendering of Services by us shall be governed and construed in accordance with the laws and regulations applicable in UAE, Bahrain, Oman, Qatar, Kuwait & Syria.
2. If a dispute arises out of or in connection with these General Terms and Conditions or the Services or its performance or any individual contract or any question as to their existence, validity or termination, we and the customer shall first seek to settle such dispute amicably. In the event such dispute cannot be settled within a period of 30 days calculated from the date of notice of such dispute given by either Party, either Party may refer the dispute to the competent court having jurisdiction.
3. The place of jurisdiction for all claims arising from the business relationship with respect to entrepreneurs and legal entities under public law is the registered office of our company in Manama, Bahrain. This also applies for claims from cheques and for territorial claims and third party notices.
4. TÜV Middle East WLL in Bahrain, UAE, Oman, Qatar, Kuwait & Syria, however, is at any time entitled to take legal action against the customer at the place of business of the customer.

XIII. Intellectual Property

The customer shall at all times recognize the validity and ownership of the intellectual property of us including but not limited to patents, utility rights, design models, application processes, trademarks, logos, trade names, government permits, registrations, licenses, franchises and/or copyrights created and/or produced by us and/or its affiliated companies and shall not contest any such intellectual property in the future.

XIV. Confidentiality

Neither Party shall disclose to any third Party any information obtained by the other Party, which is related to their business, including but not limited to market plans, customer lists, and pricing policies, except for the purposes herein provided and/or copy, reproduce or pass on to unauthorized third parties any papers and documents marked as confidential and/or drawings, patterns, templates, samples and the like provided by us. The restriction shall not apply to:

- Information present in the public domain, not necessarily as a result of a breach of this Agreement;
- Information which the Party disclosing the same can show to have been in its possession at the time of this Agreement other than under an obligation of confidence.
- Information which is not of a confidential nature or which is in the public domain at the date of this Agreement.