

GENERAL TERMS AND CONDITIONS OF TÜV CYPRUS (TÜV NORD) LTD



I. Definitions

The following terms used in these General Terms and Conditions have the following meaning:

1. "TÜV CYPRUS" is the certification body of the TÜV NORD Group, in which name this Agreement is being signed.
2. "CUSTOMER" is the company commissioning TÜV CYPRUS.
3. "Written" is the issuing of a declaration by letter, email, or fax, unless expressly specified otherwise in these General Terms and Conditions.
4. "Entrepreneur" is any contract partner practicing its commercial or independent professional activity upon conclusion of the Agreement.
5. "Consumer" is any contract partner that concludes the Agreement for a purpose that is neither part of its commercial nor independent professional activity.

2. Validity of these Conditions

1. Except as provided otherwise in individual cases, Agreements with TÜV CYPRUS are concluded exclusively pursuant to the following provisions. TÜV CYPRUS does not accept any of the Customer's conflicting regulations or conditions to the contrary unless it expressly consented to such in writing. Following conditions of TÜV CYPRUS apply even if TÜV CYPRUS provides its service without reservations while knowing of the Customer's contradicting or conflicting conditions.
2. These General Terms and Conditions apply to all of the services of TÜV CYPRUS (to include but not limited to expert opinions, inspection and consulting services) and all responsibilities resulting from the contractual obligation with the Customer. These conditions also apply to all future business relations vis-a-vis companies and corporate bodies governed by public law.

III. Conclusion of the Contract

1. An Agreement is deemed to be concluded with TÜV CYPRUS only after the Customer accepts an offer by TÜV CYPRUS without reservations or if the Customer receives a written order confirmation from TÜV CYPRUS or if TÜV CYPRUS commences the provision of the service. If TÜV CYPRUS issues a written order confirmation, such order confirmation is decisive in terms of content and scope of the Agreement unless expressly negotiated otherwise.
2. Any and all arrangements between the Customer and TÜV CYPRUS regarding the performance of the Agreement are fully set forth in writing in this Agreement including these General Terms and Conditions. There are no verbal supplements.

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IV. Performance of the Agreement and Customer's Obligation to Participate

1. If objects of the Customer must be accessed for the contractual performance of the service owed by TÜV CYPRUS, TÜV CYPRUS shall not be liable for compensation for damage to or destruction of these objects resulting from the contractual performance.
2. If TÜV CYPRUS own equipment is damaged, destroyed, or lost as a consequence or at the occasion of proper performance of the service of TÜV CYPRUS and through no fault of TÜV CYPRUS, TÜV CYPRUS is authorized to request replacement from the Customer.
3. Transportation and possible return of the Customer's objects is at its own cost and risk; however, return is performed only upon the Customer's express request. During storage, the liability of TÜV CYPRUS is limited to the same due diligence as for its own affairs.
4. The Customer is obligated to fully disclose all information relevant for TÜV CYPRUS's proper performance of its service. TÜV CYPRUS is however not obligated to review the accuracy and completeness of data, information, or other services provided by the Customer, insofar as there is no cause for this in consideration of the respective circumstances of each individual case, unless expressly stated within the order. TÜV CYPRUS does not accept any warranties for the accuracy of safety rules, information and programs upon which its inspections and expert opinions are based, unless such regulations, instructions, or programs originate with him or are the object of the inspection order. If TÜV CYPRUS is commissioned with inspecting the technical safety of an object, it does not accept any warranties for the object's freedom from other faults, unless this is expressly listed in the order.
5. Insofar as the Customer's participation is required for the TÜV CYPRUS performance of services, the Customer must provide such in a timely manner and at its own costs; expenses will be reimbursed only if this has been negotiated expressly in writing. To the extent that the Customer does not fulfill its obligations to participate, does not do so properly or in a timely manner, and if acceptance is therefore delayed, TÜV CYPRUS is authorized to charge any additional expenses thus incurred. TÜV CYPRUS's further legal claims are expressly not affected.
6. TÜV CYPRUS is authorized to have the services owed under this Agreement performed by a carefully selected and suitable subcontractor.
7. If TÜV CYPRUS is active outside of its premises, the Customer shall be responsible for any health, safety, environmental and other measures required in order to safeguard the public and the representatives of TÜV CYPRUS. TÜV CYPRUS is authorized to refuse performance of the service for as long as required measures are not taken. The Customer will inform TÜV CYPRUS in writing, in a timely manner, of all health, safety, environmental and accident prevention measures and regulations applicable at the location.
8. If the Agreement includes services pertaining to the Customer's electronic data processing (EDP) system, the Customer is obligated to back up data and programs at regular intervals that

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are adequate for the application, at least once a day, in machine-readable form, to ensure that these can be recovered with reasonable effort. TÜV CYPRUS is responsible for recovery of data only if and insofar as the Customer has ensured that such data can be reconstructed from other data material with reasonable effort.

V. Deadlines and Schedules

1. If a binding deadline for the provision of services is not agreed, TÜV CYPRUS defaults only if the Customer has first given a written, adequate deadline to provide the service owed and such deadline has expired unsuccessfully. Deadlines commence only as of the complete provision of any and all obligations to participate owed by the Customer, and, insofar as a down payment has been negotiated, as of the receipt of such. Deadlines are extended accordingly due to the Customer's retroactive change requests or delayed participation.
2. If the service owed by TÜV CYPRUS is delayed due to unforeseeable circumstances and through circumstances, for which TÜV CYPRUS is not at fault (e.g. strike, legitimate lockout, disruption of operation, transportation disruption, shortage of resources, official measures - also at the TÜV CYPRUS 's supplier), TÜV CYPRUS is authorized to defer the service for the duration of the delay. In the event that the delay lasts more than forty five days, TÜV CYPRUS is authorized to withdraw from the Agreement. TÜV CYPRUS will immediately inform the Customer of the non-availability of the service or partial service, and in the event of a withdrawal from the Agreement will immediately reimburse any services in return already provided for such. Claims for damages are excluded.
3. If the Customer defaults on acceptance or if it violates other obligations to participate, CYPRUS is authorized to request reimbursement of any additional expenses possibly incurred due to such default or violation. This does not affect any further legal claims for damages.
4. If TÜV CYPRUS defaults on the provision of services due to slight negligence, its liability for damage arising from deferment (compensation in addition to services) is limited to 5% of the contract price. Claims for damages in lieu of performance are subject to Sec. X.

VI. Acceptance

1. The Customer is obligated to accept the TÜV CYPRUS 's services. The Customer is not entitled to refuse acceptance for insignificant defects that do not have a material effect on the fitness of the service pursuant to the contractual purpose, regardless of its right to assert statutory warranty claims. In case of self-contained partial services, TÜV CYPRUS is also authorized to request partial acceptance.
2. If the Customer refuses acceptance in violation of No. 1 of this section, acceptance is nonetheless deemed to be made.

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3. The Customer is obligated to accept the TÜV CYPRUS 's services within 14 days after receipt unless such services show material defects that give cause to a refusal of acceptance. If the Customer does not accept the services within the fixed grace period even though it is obligated to do so, the service is deemed to be accepted. If the Customer is a Consumer, TÜV CYPRUS upon completion of the service is obligated to expressly inform the Customer of the consequences of such expiration of the grace period.
4. If the Customer claims a retention right due to defects, TÜV CYPRUS shall review its service. If the Customer's retention is proven to be unjustified, the Customer shall bear all incurred additional costs unless it has acted merely with slight negligence or is not at fault.

VII. Prices and Payments

1. The price listed or charged by TÜV CYPRUS for the respective service is decisive, plus statutory value-added tax insofar as such is applicable. In case of transnational services, any possibly applicable taxes, fees, customs fees, and other charges (of any kind) incurred for the transnational service shall be borne by the Customer.
2. If, within the scope of contracts for the performance of a continuing obligation and long-term contracts, TÜV CYPRUS 's prime costs increase and such increase is not within the TÜV CYPRUS 's own scope of responsibility, TÜV CYPRUS is authorized to an appropriate price increase corresponding with the increase of its prime costs; if the Customer does not consent to such price increase it is authorized to terminate the Agreement within 30 days after receipt of such notification of a price increase; otherwise, the increase is deemed to be mutually agreed upon. A right to a price increase pursuant to this provision does not exist if the Customer is a Consumer.
3. The Customer shall pay the remuneration owed without any cash discounts, free of charge to TÜV CYPRUS, and within thirty days after receipt of the invoice, to the bank account stated by TÜV CYPRUS. Credit entry at the TÜV CYPRUS 's account is decisive for the timeliness of the payment. TÜV CYPRUS reserves the right to request appropriate advance payments and appropriate installment payments.
4. If the Agreement is based on a cost estimate, and if it turns out that the costs will be significantly higher than the amount estimated vis-a-vis the Customer, then TÜV CYPRUS will inform the Customer of such in writing. In this case the Customer is authorized to terminate the Agreement in writing, within fifteen days after receipt of such notification. In the event of a termination, TÜV CYPRUS is authorized to request partial remuneration commensurate with the services already provided. Furthermore, TÜV CYPRUS is authorized to request compensation for any expenses not included in the remuneration but incurred due to the provision of services.
5. If the Customer owes interest and expenses in addition to a possibly existing principal claim,

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any payment by the Customer that does not fully redeem the total sum will first be credited against expenses, secondly against interest, and lastly against the principal claim.

6. The Customer is entitled to offset and retention rights only if its counterclaims are legally ascertained, undisputed, or acknowledged in writing by TÜV CYPRUS. This limitation does not apply to the Customer's claims for defects arising from the same contractual relation as the TÜV CYPRUS 's payment claim. If the contract partner is a Consumer, then in contrast to clause 1, such contract partner is on principle entitled to unlimited retention rights for claims arising from the same contractual relation.
7. If, after conclusion of the Agreement, it becomes clear that the TÜV CYPRUS 's claims vis-a-vis the Customer are at risk due to the Customer's lack of ability to perform, TÜV CYPRUS is authorized to perform outstanding services only against advance payment or provision of a security as well as settlement of possibly still outstanding receivables for partial services already provided and arising from the Agreement, and - after unsuccessful expiration of a grace period - is authorized to withdraw from the Agreement; No. 4 clause 3 of this provision applies accordingly.
8. In case of payment default, the Customer owes the default statutory interest to TÜV CYPRUS. TÜV CYPRUS is entitled to assert further claims if it can prove higher damage to the Customer. TÜV CYPRUS is furthermore entitled to charge a flat rate of €5.00 per reminder unless the Customer provides evidence that TÜV CYPRUS did not incur any damage or incurred significantly lower damage.

VIII. Claims for Defects

1. In the event of defective service by TÜV CYPRUS, the Customer shall grant TÜV CYPRUS opportunity to supplementary performance, at least twice, within appropriate grace periods, unless this is unreasonable in each individual case or unless special circumstances justify the Customer's immediate withdrawal in consideration of mutual interests. TÜV CYPRUS may rectify the defect at its own choice or provide the service once more without defect. If supplementary performance is unsuccessful, the Customer is authorized to reduce remuneration or to withdraw from the Agreement; claims for compensation for damage exist only pursuant to Sec. X. No claims for compensation for damage and withdrawal exist if the deviation from the contractual condition is insignificant.
2. The Customer shall inform TÜV CYPRUS immediately - no later than fifteen days after acceptance - in writing of any obvious defects. The Customer shall inform TÜV CYPRUS of any hidden defects in writing no later than fifteen days after discovery of such. Otherwise the assertion of warranty claims is excluded. This does not apply if the Customer is a Consumer.

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IX. Withdrawal

1. The Customer's right to withdraw is valid only if TÜV CYPRUS is responsible for the violation of duties based upon which withdrawal is declared. The withdrawal must be declared in writing by registered letter. If the Customer is a Consumer, a written declaration of withdrawal suffices.

X. Liability

1. TÜV CYPRUS 's liability is based on the statutory provisions for compensation for damage if the Customer asserts claims for damages based on intent or gross negligence, to include intent or gross negligence of TÜV CYPRUS 's representatives or vicarious agents, or if TÜV CYPRUS culpably violates a material contractual obligation. Material contractual obligations are obligations which enable the proper performance of the Agreement in the first place and on the performance of which the contract partner usually relies and is expected to rely.
2. Insofar as TÜV CYPRUS cannot be accused of intentional violation of a contractual obligation, the liability for damages in the above cases is limited to foreseeable damage typically incurred in connection with agreements of this nature. Accordingly, TÜV CYPRUS is in these cases liable for property and material damages up to the tenfold of the paid fee (in any case up to a maximum of €3,000,000.00 per damage event). If the Customer is a Consumer the liability limitations set forth in this section neither apply in case of intentional violations of a contractual obligation or nor in case of gross negligence.
3. The above provisions do not affect liability for culpable injury of life, body, or health.
4. Unless otherwise stipulated in these provisions, liability for damages exceeding Nos. 1.-3 is excluded without regard to the legal nature of the asserted claim.
5. Insofar as the liability of TÜV CYPRUS for damage pursuant to the above regulations is excluded or limited, this also applies in regards to personal liability for damages of TÜV CYPRUS 's employees, workers, staff members, representatives and vicarious agents.
6. The limitations pursuant to Nos. 1 and 2 also apply if the Customer claims wasted expenses instead of damage in lieu of performance.
7. The liability for indirect and repository damages is excluded.
8. If claims are raised against TÜV CYPRUS by a competitor of the client or any other third person, concerning an event for which the Customer is responsible, the Customer is obliged to assume the responsibility of compensation for the damages caused to TÜV CYPRUS by any claims from third parties.

XI. Period of Limitations

1. Contractual claims due to breach of duty shall expire one year after the start of the statutory

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period of limitations. This does not apply to claims for defective workmanship on a structure or faulty planning and supervision services for a structure. In this case, the statutory period of limitations of five years as of acceptance applies.

2. The above provisions do not apply to statutory periods of limitations for the following: (i) damages arising from death and injury to body and health; (ii) other damages based on an intentional or grossly negligent breach of duty of TÜV CYPRUS, its legal representatives or vicarious agents; (iii) claims due to fraudulent concealment of a defect or due to a guarantee of properties.

XII. Warranty

1. TÜV CYPRUS does not accept the responsibility that audits undertaken at the facilities or concerning the products/services of the Customer by state authorities, other certification bodies or similar organizations, authorized to give rulings on the facilities or products/services of the Customer, shall have a positive result, or result in the issuance of a respective certificate based on the audit undertaken by TÜV CYPRUS at the Customer's company, given the fact that the audit involves the certification of the Management System, and not the certification of a product or service.
2. No warranty is accepted expressly or implied on the existence or non-existence of a legal or other relation of the Customer with the certified object, indicatively and not restrictively, for the existence or non-existence, situation, validity or invalidity, state or force of right or obligation, legal status, position or relationship, on the existence or non-existence or relevant deficiencies, defects or errors. There is no responsibility for real events, properties or possible mistakes, defects, omissions and shortages, if TÜV CYPRUS was not aware of them and under no obligation or in no state to be aware of them, or if they were fraudulently withheld by the Customer, his key personnel or employees or any other third party in an appurtenance relation and/or position of trust with him. There is furthermore no warranty or responsibility accepted that the certificate and mark may be used for any other commercial, financial, advertising etc purpose, other than the one of certification.

XIII. Utilization Rights and Indemnification

1. The services of TÜV CYPRUS provided during the fulfillment of the Agreement (e.g. expert opinions, inspection and consultation services) may be utilized only within the scope of the contractually negotiated purpose. Subject to deviating agreements in each individual case, TÜV CYPRUS therefore grants to the Customer a simple, non-transferable utilization right that is limited in terms of duration and location, for its services that are subject to copyright protection. Other rights are expressly not granted; the Customer is in particular not authorized to process or modify TÜV CYPRUS 's services or to use excerpts of them.

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2. Insofar as, pursuant to the Agreement, TÜV CYPRUS grants a right to the utilization of quality marks and/or a certificate of TÜV CYPRUS to the negotiated extend, such may be utilized only for the contractual, designated use or the certified area and only in the unmodified form or shape as provided by the TÜV CYPRUS.
3. Any utilization of TÜV CYPRUS 's brands and other identifying marks beyond the above, for example the word mark/de sign mark " TÜV CYPRUS " requires TÜV CYPRUS 's express, prior written consent.
4. If the Customer violates the above provisions, TÜV CYPRUS is at any time authorized to prohibit the continued utilization of TÜV CYPRUS 's services, quality marks, certificates, and/or identifying marks. The Customer is upon first request by TÜV CYPRUS obligated to indemnify TÜV CYPRUS from all third party claims, regardless of the legal grounds (e.g. competition law), which claims are based on its utilization of TÜV CYPRUS 's services, quality marks, certificates, and/or identifying marks as well as all of its own, connected, required expenses.

XIV. Data Protection

TÜV CYPRUS shall process and utilize personal data exclusively within the scope of the purpose of the Agreement, unless the Customer has consented to further utilization. Upon complete execution of the Agreement, the Customer's personal data shall be blocked for further utilization and shall be deleted upon expiration of statutory retention periods, unless the Customer has provided separate consent for further utilization. For the rest the Customer shall be entitled to information, reporting, blocking, and deletion of its data stored by TÜV CYPRUS

XV. Obligation to Confidentiality and Retention of Records

1. TÜV CYPRUS as well as the Customer are each obligated to maintain confidentiality regarding confidential information of the respective other contract partner. This obligation continues for a term of five years after termination of this Agreement. From this obligation excluded is any information that a) can be proven to have already been known to the recipient upon conclusion of the Agreement or that is disclosed by third parties after conclusion of the Agreement without such third parties violating a confidentiality agreement, statutory provisions, or official orders;
 - b) is public knowledge upon conclusion of the Agreement or becomes public knowledge after conclusion of the Agreement, unless such is based on a violation of this Agreement;
 - c) must be disclosed due to statutory obligation or orders of a court or an official authority. Insofar as permitted and possible, the recipient obligated to disclose such information shall inform the other contract partner of such in advance and will provide the respective other contract partner with an opportunity to take action against such disclosure.

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- d) the recipient developed itself or had developed independently from its knowledge of such confidential information.
2. TÜV CYPRUS shall retain contractual documents insofar as a statutory or official obligation to retain records exists. TÜV CYPRUS is furthermore obligated to retain records for the purpose of documentation; any of the Customer's possible statutory or contractual claims for return remain unaffected.

XVI. Place of Fulfillment and Prohibition of Assignment

1. Place of fulfillment for all services is TÜV CYPRUS 's registered office.
2. Assignment or pledging of claims to which the Customer is entitled based on the business relation is excluded.

XVII. Jurisdiction and Applicable Law

1. TÜV CYPRUS 's registered office is place of jurisdiction for all claims arising from the business relation vis-a-vis commercial entities, corporate bodies under public law, or special assets. However, TÜV CYPRUS is authorized to bring an action against the Customer at the Customer's general place of jurisdiction.
2. The Cypriot law applies to all business relations and the overall legal relations between the Customer and TÜV CYPRUS