

# General Purchasing Terms and Conditions of TÜV Rheinland Australia Pty Ltd ("TRA").

## 1. General / Scope of Validity

- 1.1 The following terms and conditions apply exclusively to all purchases, products, and services commissioned by TRA ("**Services**").
- 1.2 Subject to clause 1.4, TRA does not recognize any terms and conditions of the company being commissioned to perform the Services by TRA ("**the Company**") that conflict or are inconsistent with these general purchasing terms and conditions ("**Terms and Conditions**") in full or in part, unless TRA has expressly agreed to be bound by such terms in writing.
- 1.3 These Terms and Conditions will still apply if TRA accepts the Services, even in the event that TRA is aware that the Company has or requires terms and conditions which are in conflict or are inconsistent with the these Terms and Conditions..
- 1.4 For each package of Services commissioned by TRA, the Company and TRA will sign a purchase order specifying the scope of and any specific terms for such Services ("**Purchase Order**"). Where there is a conflict or inconsistency between these Terms and Conditions and the terms of a Purchase Order, the terms of the Purchase Order shall prevail.

## 2. Scope of Services

- 2.1 The scope of the Services to be performed by the Company is determined in accordance with the Purchase Order.
- 2.2 The Company is responsible for the supervision, monitoring and inspection of the performance of Services, as well as for organizational integration to ensure that TRA's operating processes are not disturbed or disrupted by the provision of the Services.
- 2.3 By signing a Purchase Order, the Company confirms that it has received all information on the nature and scope of the Services and agrees the price in the Purchaser Order accounts for all services, work or materials necessary to fully perform the Services (and to fully discharge the Company's obligations under these Terms and Conditions and each Purchase Order). The Company agrees it is not entitled to claim more than the price in the Purchase Order.

## 3. Delivery of goods, packaging and Transportation

- 3.1 The Delivery shall be "DDU" – Delivered Duty Unpaid at the address stated in the Purchase Order. If no address is stated in the Purchase Order the Company will deliver the Services at the following office:

TUV RHEINLAND AUSTRALIA PTY LTD  
182 DOUGHARTY ROAD  
PO BOX 5050,  
HEIDELBERG WEST,  
VICTORIA 3081- AUSTRALIA  
PHONE - +61 3 9450 1463  
FAX - +61 3 9450 1499; EMAIL – INFO@AU.TUV.COM

- 3.2 Any goods forming part of the Services are to be properly packed and identified and must reach their destination by the most suitable means of transportation possible in a defect-free state.
- 3.3 The Company will be liable for damage caused to goods in transportation or as a result of inadequate packaging.
- 3.4 In the circumstances of clause 3.3 TRA may return or send back to the Company the goods and/or packaging material.

3.5 The return of the packaging material will take place at the expense and risk of the Company.

#### 4. Service period and delay

4.1 Services by the Company must take place at the agreed time or within the agreed time frame specified in the Purchase Order.

4.2 Other than to the extent a delay is caused by TRA, if Services are not completed by the date specified for completion in the Purchase Order, the Company will be liable to pay TRA liquidated damages equal to a proportion of the total price of the Purchase Order for each day of delay, such proportion to be specified in the Purchase Order. The parties agree that the liquidated damages payable under this clause 4.2 in respect of any Purchase Order:

- (a) must not in aggregate exceed 25% of the total price of the Purchase Order;
- (b) will be due immediately without any reminder being necessary and without any effect on (and without prejudice to) any of TRA's other legal rights, including the right to require the performance of the Purchaser Order or payment of any other claims, damages or compensation to TRA by the Company;
- (c) will be offset against any claims to compensation from TRA; and
- (d) Are a reasonable pre-estimate of the loss likely to be suffered by TRA for failure of the Company to deliver the Services by the agreed date and will be paid as liquidated damages and not as a penalty by the Company to TRA.

4.3 If the Company knows or ought reasonably know that the date for completion of the Services specified in a Purchase Order cannot be achieved, or that the Services will otherwise not be performed in accordance with the Purchase Order, it must inform TRA immediately in writing, stating all reasons. Without prejudice to TRA's rights, the parties may meet to determine how the delay or non-compliance can be resolved to the satisfaction of TRA.

4.4 At least 3 business days prior to the expected date of completion of the performance of any Services, the Company will notify TRA in writing such notice to refer to the Purchase Order number.

4.5 Within 24 hours of receipt of a notice from Company under clause 4.3, TRA may by written notice to Company require the postponement of the performance of the Services by up to 48 hours, and Company will not be entitled to any additional payment as a consequence of such postponement.

4.6 If for any reason (including under clause 4.5), TRA requires the performance of the Services to be postponed, the Company must store the goods or materials to be delivered properly packaged, and store them, insure them, and identify clearly that they are intended for TRA, at no cost to TRA.

4.7 Any goods delivered by the Company to TRA under a Purchase Order must display the following information on a label that must be attached to the exterior of the packaging:

- (a) name of individual from TRA who requested the goods;
- (b) Purchase Order number;
- (c) brief description of the product;
- (d) number of items per box or package;
- (e) barcode of the number of items per box or package (EAN128);
- (f) serial number of the product;
- (g) barcode of the serial number (EAN128);

- (h) weight of the box or package;
- (i) country of origin;
- (j) delivery or production date;
- (k) name and address of the supplier; and
- (l) all information required under national or international Law.

## **5. Inspection for defects in delivered Goods**

- 5.1 TRA may inspect any goods delivered by Company for obvious or easily discernible defects.
- 5.2 If TRA determines that there is a defect in any goods or services provided by Company, TRA will notify the Company of this:
- (a) within ten (10) business days of delivery, if a defect of this kind is obvious or easily discernible at the time of delivery; or
  - (b) after it is discovered, if the error or defect is discovered after delivery (e.g. when unpacking, when installing, or at the time when the product is used for the first time); or
  - (c) as applicable, in accordance with clause 16.
- 5.3 Risk in the Services (including any goods) remain with the Company until delivery to TRA's designated premises in accordance with these Terms and Conditions. If a notification is made in accordance with clause 5.2, the risk for the defective goods or products or services will be automatically transferred to the Company when it receives the notification from TRA.
- 5.4 Upon request by TRA, the Company must grant TRA access to the premises where the goods forming part of the Services are being produced or stored. The Company will be obliged to provide TRA with support and cooperate as necessary during this inspection and to provide the necessary documentation and information at its own expense.

## **6. Transfer of ownership**

Subject to clause 5.3, ownership and risk with regard to the delivered goods will be transferred to TRA when the delivery is performed in accordance with clause 3.1.

## **7. Amendment procedure**

- 7.1 If TRA would like to make an amendment to the Services ("**Amendment**"), it must send a written amendment order ("**Amendment Order**") to the Company. The Company will then submit a calculation of the price deviations caused by the Amendment together with any suggestions for modification of the Amendment Order. TRA may decide at its own discretion whether the Amendments should be performed on the terms proposed by Company. If approved by TRA, the Amendment will be performed after written notification from TRA. If such notification is not provided, the Company will continue to perform the Services as originally agreed.
- 7.2 The Company may not make any amendments to the Services without a prior written approval from TRA.

## **8. Retention of title to materials provided by TRA**

- 8.1 All materials, parts, containers and special packaging provided by TRA will remain the property of TRA. Processing or alteration by the Company will be performed on behalf of TRA.
- 8.2 If in the performance of the Services goods owned by TRA are added, merged, combined or incorporated with other items not belonging to TRA, TRA will acquire joint ownership of the new items in proportion to the value of TRA's goods to the other processed items at the time of the processing.

- 8.3 If goods owned by TRA are indivisibly mixed with other items not belonging to TRA, TRA will acquire joint ownership of the new items in proportion to the value of TRA's goods to the other items at the time of the mixing. If the mixture takes place in such a manner that the Company's items is to be viewed as the main item, it is agreed that the Company will transfer proportional joint ownership to TRA, and the Company will store the sole or joint property on behalf of TRA.

## 9. Cooperation

- 9.1 In performance of their respective obligations under a Purchase Order or these Terms and Conditions, the parties will cooperate in good faith and will inform each other immediately of deviations from the scope and agreed terms in respect of the Services..
- 9.2 If the Company realizes that its own information and requirements are defective, incomplete, unclear, or unfeasible, the Company must immediately inform TRA in writing of this and the likely consequences.
- 9.3 Each party must nominate a contact person to be responsible for communications between the parties ("**Representative**").
- 9.4 The parties must inform each other immediately in writing of any change in their nominated Representative.
- 9.5 The parties agree to meet at regular intervals on progress in the performance of Purchase Orders and these Terms and Conditions.
- 9.6 TRA and the Company acknowledge that other than with the consent of the other party, neither party is permitted to use brands, logos, trademarks or other intellectual property of the other party.

## 10. Payment and invoicing

- 10.1 The payment terms for Services will be specified in each Purchase Order.
- 10.2 The prices specified in a Purchase Order will include all additional costs, expenses and outlay by the Company.
- 10.3 If reimbursement for travel and additional costs is agreed in a Purchase Order, reimbursement will only be made upon submission by Company of detailed tax invoices for such expenses.
- 10.4 Company must provide invoices for Services within 90 days after completed delivery of the Services. Invoices must be tax invoices for GST purposes, must state the Purchase Order number and attach evidence that the Services have been performed.
- 10.5 Unless otherwise agreed in writing (including by email), payment for Services will be made within sixty (60) calendar days of receipt of the invoice provided in accordance with clause 10.4.
- 10.6 Payment for Services will be made by bank transfer or by other means at the discretion of TRA.
- 10.7 TRA may setoff any amount specified in an invoice from Company or otherwise payable by TRA to the Company against any amount owed by Company to TRA.

## 11. GST

- 11.1 Words or expressions used in this clause that are defined in A New Tax System (Goods and Services Tax) Act 1999 (GST Act) have the same meaning given to them in that Act.
- 11.2 Unless otherwise stated, any amount specified in these Terms and Conditions or in a Purchase Order as the consideration payable for any taxable supply does not include any GST payable in respect of that supply.
- 11.3 If a party makes a taxable supply under these Terms and Conditions or a Purchase Order (**Supplier**), then the recipient of the taxable supply (**Recipient**) must also pay, in addition to the consideration for that supply, the amount of GST payable in respect of the taxable supply at the time the consideration for the taxable supply is payable.

- 11.4 Notwithstanding the foregoing, the Recipient is not obliged under these Terms and Conditions or a Purchase Order to pay the amount of any GST payable until the Supplier provides it with a valid tax invoice for the taxable supply.
- 11.5 If an adjustment event arises in relation to a taxable supply made by a Supplier under these Terms and Conditions or a Purchase Order, the amount paid or payable by the Recipient pursuant to clause 11.3 will be amended to reflect this and a payment will be made by the Recipient to the Supplier or vice versa as the case may be.
- 11.6 If a third party makes a taxable supply and these Terms and Conditions or a Purchase Order requires a party (**payer**) to pay for, reimburse or contribute to (**pay**) any expense or liability incurred by the other party to that third party for that taxable supply, the amount the payer must pay will be the amount of the expense or liability plus the amount of any GST payable in respect thereof but reduced by the amount of any input tax credit to which the other party is entitled in respect of the expense or liability.
- 11.7 This clause does not merge on completion of any Services and will continue to apply after expiration or termination of these Terms and Conditions or any Purchase Order.

## 12. Warranties and additional Remedies

- 12.1 The Company guarantees that all goods forming part of the Services will meet the specifications required by the Purchase Order, as well as complying with any purpose stated by TRA or the Company.
- 12.2 Nothing in these Terms and Conditions will limit TRA's rights or guarantees under the Australian Consumer Law (Schedule 2 of the Australian Competition and Consumer Act 2010 (Cth) and any equivalent state or territory legislation) or any other statutory or legal rights of TRA in connection with the Services.
- 12.3 The Company guarantees that all goods and services comprising the Services meet all legal requirements and regulations in Australia, as well as meeting the safety, quality and environmental requirements that are the standard in the industry at the time the delivery is made.
- 12.4 The Company guarantees that Services will be performed on time, competently and professionally in accordance with these Terms and Conditions and will satisfy the strictest standards of the industry in question that are valid at the time of the Services.
- 12.5 The Company guarantees that upon request it will support and cooperate with TRA with regard to all of TRA's requirements in relation to the Services in connection with the internal auditing of TRA and in order to adhere to national or international laws concerning the Services without limitation and at no additional cost to TRA.
- 12.6 If the Company delivers goods for which replacement parts and/or consumable items could be needed, the Company guarantees that it is in a position to supply replacement parts and consumable items for these goods for a period of at least 7 years.
- 12.7 Without limiting clause 12.6, in the event that Company will no longer be in a position to supply replacement parts and consumable items, it must provide TRA with at least three (3) months prior written notice, and provide TRA the opportunity to purchase such replacement parts and consumable items as it may require at prices and on terms no more favourable to Company than the standard trading terms between Company and TRA immediately prior to the notice from Company.

## 13. Intellectual property rights

- 13.1 All know how, design flows, methodologies, trade secrets or other intellectual property ("**Service Results**") that is developed by TRA in connection with the Services will be the exclusive property of TRA.
- 13.2 To the extent any Service Results are the property of Company, the Company grants TRA a non-exclusive, perpetual, transferable, royalty-free, irrevocable, worldwide licence of use the Service Results ("**Licence**").
- 13.3 Company acknowledges that it is not entitled to claim any additional compensation in connection with the Licence, and that the consideration for the Licence is the payments agreed for the Services.

- 13.4 The Company guarantees that the goods (and services) comprising the Services are its own original developments and it otherwise has the right to supply such goods (and services), and that its Services do not breach any intellectual property rights whatsoever or any other third party rights.
- 13.5 The Company will indemnify and hold TRA harmless against any third party claims for breach of intellectual property rights in connection with TRA's use of the Services, including trademark, patent, and copyrights, and will also compensate TRA for any damages that it incurs in the form of damages or expenses including but not limited to legal costs on a full indemnity basis.
- 13.6 If a claim is made in accordance with clause 13.5 or TRA reasonably believes that a claim will be made in the future, the Company must ensure at its own expense either:
- (a) that TRA obtains the rights to continue to use and exploit the Services performed; or
  - (b) replace or modify the Services in such a way that they no longer infringe any third party's rights but remain at least the same functionality, provided that the Service replaced or modified in this way is approved in advance by TRA.

#### **14. Performance of Services**

- 14.1 This clause 14 applies to all Services performed by the Company on site on TRA's premises, on TRA's customer's premises, or (virtually) from another location via the TRA IT network for TRA or its customers.
- 14.2 During the performance of Services, the employees, contractors, or advisors of the Company ("**Staff**") must meet the requirements reasonably specified by TRA, and if no requirements are specified, must meet the general requirements for professional competence and expertise in the relevant or applicable sector. If Staff are insufficiently qualified for the performance of the Services, TRA will have the right to require the removal of such Staff, in which case, the Company will be obliged to ensure that replacements are found immediately.
- 14.3 The Company is responsible for providing all materials and equipment, including tools, as are required for provision of the Services.
- 14.4 TRA will be entitled to inspect the materials and equipment used by Company for the performance of the Services and to determine the identity of each member of Staff. Company guarantees that the all members of Staff will be in a position to identify themselves at any time with photo identification.
- 14.5 If TRA reasonably rejects any materials or equipment proposed to be used by Company in part or in full, the Company will be obliged to replace the rejected materials and equipment immediately.
- 14.6 Company must familiarize itself in advance with the site where Services are to be performed to the extent necessary for the performance of the Services. The Company will be responsible for any costs that are incurred in connection with familiarizing itself with the site, or that are incurred in the performance of the Services as a result of the site to the extent Company should have recognized the situation during the aforementioned inspection.
- 14.7 TRA will be entitled to equip the Staff of the Company with the necessary identification required for access for the time it will spend on TRA's premises or its customer's premises in accordance with the relevant internal regulations that are valid.
- 14.8 The Company must ensure that its presence and the presence of its Staff on TRA's premises or its customer's premises impedes the uninterrupted working processes of TRA and of third parties to the smallest extent possible.
- 14.9 The Company and its Staff must familiarize themselves with the content of the regulations and policies for TRA's premises or those of TRA's customer. This will also include among other things the regulations and policies on IT security, general conduct, general safety, health, and the environment. The Company will ensure that its Staff adhere to the regulations and policies listed under this clause 14.9.

- 14.10 The Company will ensure that TRA may have the Staff of the Company and any subcontractors working on behalf of the Company (with the approval of TRA) sign individual adherence declarations as to matters in these Terms and Conditions or a Purchase Order, including but not limited to clause 14.9 and clauses in respect of intellectual property and confidentiality.
- 14.11 The Company will be solely responsible for the compensation of its Staff, including but not limited to the payment of all associated wages, taxes, entitlements and superannuation contributions. The Company will indemnify TRA at all times with regard to payments of this kind on the part of third parties as a result of unpaid or insufficient payment of wages, taxes, entitlements or other contributions by the Company.
- 14.12 The Company will ensure that its Staff have valid work and residence permits, as well as all other necessary permits or licenses when they are working on the premises of TRA or its customers.

## **15. Storage and return of Documentation**

The Company will be obliged to properly store all business and operational documentation with which it is provided and in particular to ensure that such documentation cannot be viewed by third parties. Throughout the term of the contractual relationship, the documentation made available must be returned to TRA upon request.

## **16. Acceptance of Services**

- 16.1 Company acknowledges that TRA may require acceptance testing in respect of Services. The nature, type and extent of acceptance testing (if any) will be specified in the relevant Purchase Order.
- 16.2 Upon acceptance of Services by TRA, a signed record is to be created which will confirm the compliance of the agreed Service, including (where applicable) the passing of the relevant acceptance testing. A list of the defects (if any) determined during the acceptance will be attached. Any defects that remain after acceptance will be corrected by the Company as a matter of urgency and in any case no later than ten business days after acceptance by TRA under this clause.
- 16.3 TRA will accept the Services immediately after the transfer and/or successful acceptance test in accordance with clause 16.2.. Without limiting the Company's obligation to correct defects, defects that do not limit proper use or limit proper use in an insignificant way only, do not give TRA any right to refuse to accept the relevant Services. The performance of acceptance before the final rectification of defects will be at the discretion of TRA in case of defects that are not insignificant.
- 16.4 If the Company does not complete the Services within a reasonable time specified by TRA after the date for completion of the Services (as agreed or stated in a Purchase Order) TRA may immediately terminate the Purchase Order. Further, where damages have been paid or have accrued yet are not paid by the Company under clause 4.2, and those damages are at or in excess of the limit of damages prescribed in clause 4.2, TRA may also immediately terminate the relevant Purchase Order.
- 16.5 Without prejudice to TRA's other rights at law, claims may be made for defects that are fraudulently concealed within a period of 10 years from the time of acceptance.

## **17. Subcontractors**

The Company may not subcontract any Services to third parties without the prior written consent of TRA.

## **18. Liability**

- 18.1 The Company indemnifies and holds TRA harmless against third party claim action, loss, damage, liability (including without limitation any liability arising under federal, state or other tax laws) and expense, including without limitation reasonable legal fees and costs, arising from or in connection with:
- (a) the Company's breach of these Terms and Conditions or a Purchase Order; and/or
  - (b) The negligent acts or omissions of the Company.

- 18.2 The Company must obtain and maintain appropriate professional indemnity and public liability insurance policies and must note TRA's interest on such policies and allow TRA to view the insurance policy if requested by TRA. Claims by TRA against Company are not limited to the sum insured in each case.

## 19. Confidentiality

- 19.1 “**Confidential Information**” means any scientific, technical, trade or business information which is given by one party to the other and which is treated by the disclosing party as confidential or proprietary. Confidential Information does not include information that:

- (a) is in possession of the receiving party at the time of disclosure, as reasonably demonstrated by written records and without obligation of confidentiality;
- (b) is or later becomes part of the public domain through no fault of the receiving party; or
- (c) is received by the receiving party from or developed independently by the receiving party without use of, reference to, or reliance upon the disclosing party's Confidential Information by individuals who did not have access to Confidential Information.

The disclosing party must, to the extent practical, use reasonable efforts to label or identify as confidential, at the time of disclosure all such Confidential Information that is disclosed in writing or other tangible form.

- 19.2 Each party agrees:

- (a) to keep confidential the Confidential Information of the other party and these Terms and Conditions and each Purchase Order,
- (b) not to disclose the other party's Confidential Information to any third party without the prior written consent of such other party, and
- (c) to use such Confidential Information only as necessary to fulfill its obligations or in the reasonable exercise of rights granted to it under these Terms and Conditions or a Purchase Order. A party may disclose:
  - (i) Confidential Information of the other party to its related bodies corporate, and to its and their directors, employees, consultants, and agents in each case who have a specific need to know such Confidential Information and who are bound by a like obligation of confidentiality and restriction on use to those in this clause 19; or
  - (ii) Confidential Information of the other party to the extent such disclosure is required to comply with applicable law or to defend or prosecute litigation;

provided however, that in each case the receiving party is liable for any breach of confidentiality and restriction of use requirements under clause 19.2(c)(i) and in the circumstances of clause 19.2(c)(ii), provides prior written notice of such disclosure to the disclosing party and takes reasonable and lawful actions to avoid or minimize the degree of such disclosure. The obligation in this clause 19.2 survives expiration or termination of these Terms and Conditions for a period of five (5) years from the date of such expiration or termination.

- 19.3 Except to the extent required by law, neither party may make any public statements or releases concerning these Terms and Conditions or the terms of any Purchase Order or the transactions contemplated by them without obtaining the prior written consent of the other party, which consent must not be unreasonably withheld or delayed.

- 19.4 On termination of these Terms and Conditions the receiving party agrees, at the disclosing party's direction, to return to the disclosing party or destroy the disclosing party's Confidential Information, providing written confirmation to the disclosing party of compliance with such direction. Notwithstanding this clause 19.4, TRA shall be entitled to keep a copy of Confidential Information of the Company in respect of the Services for the purpose of corporate governance, insurance and as evidence of performance of the Services.

## 20. Data protection

The Company must adhere to the data protection regulations most recently advised by TRA prior to the time of delivery, irrespective of the area that the delivery is made from and to.

## **21. Right to termination**

- 21.1 Subject to TRA's rights to terminate these Terms and Conditions and any Purchase Order under and in accordance with these Terms and Conditions and any Purchase Order (and in addition to (and without prejudice to) any other of TRA's rights), TRA may terminate these Terms and Conditions and/or any Purchase Order for any breach by the Company of these Terms and Conditions or any Purchase Order, provided that where the breach is capable of remedy the Company has been given at least 5 business days notice in which to remedy the relevant breach
- 21.2 TRA may terminate these Terms and Conditions and any Purchase Order without notice if the Company becomes insolvent, or insolvency proceedings are initiated against it.
- 21.3 Termination must take place in writing in order to be effective.

## **22. Occupational Health and Safety**

- 22.1 When performing work at TRA or TRA's customer's facilities or premises, the Company shall check the conditions of the area where the work is to be performed in advance. If any potential hazards or harmfulness is found to exist, necessary measures shall be taken to prevent occupational accidents.
- 22.2 When taking measures to prevent occupational accidents while performing work at TRA or TRA's customers' facilities or premises, the Company shall inform all persons concerned to ensure that the measures are implemented. The Company should also give consideration, as necessary, to posting notices in easily viewable locations for people other than workers in the same work area (e.g., no entry, chemical hazards, wearing protective equipment, etc.).
- 22.3 When performing hot work, such as welding or use of open fire in a TRA facility or on the premises, the Company shall separately apply for a temporary "hot work permit" and obtain a prior permit from the Fire Safety Officer of the site.
- 22.4 The Company shall comply with all applicable laws and regulations related to occupational health and safety and all other requirements presented by TRA to prevent occupational accidents.
- 22.5 In the event of an accident resulting from its activities, the Company shall immediately notify TRA, take appropriate measures to deal with the accident, and strive to prevent recurrence.

## **23. Environment**

- 23.1 The Company must meet in full all Australian environmental regulations and environmental laws, including, but not limited to state and federal environmental protection legislation and regulations.
- 23.2 The Company will fully support and cooperate with TRA in the environmental management inspections that it performs on a regular basis or in other environmental purchasing standards of which it will be periodically informed by TRA. In particular, the Company will provide TRA with certain environmentally relevant information on the products purchased from it upon request on a quarterly basis required by TRA as part of ISO certifications.
- 23.3 If requested by TRA, the Company will send information relating to packaging data and disposal of old equipment in a timely manner in accordance with applicable legal requirements.
- 23.4 The company must compensate TRA for all damages and expenses (including costs for legal proceedings) and for claims by third parties relating to a breach of environmental law or other applicable environmental regulations by the Company.
- 23.5 In case of environmental accidents or damage caused by the Company or environmental pollution, the Company must immediately inform TRA of all such accidents and pollution (as well as any claims or potential claims) and take appropriate measures for dealing with such accidents, damage or pollution. The Company will also undertake all measures to prevent any environmental damage, accident or pollution. The Company indemnifies TRA from and against all loss, damages and claims under or in connection with this clause 22.

## 24. Compliance

- 24.1 TÜV Rheinland AG is a member of UN Global Compact and will adhere to the principles laid down in the Compact. The Company must without limitation comply with and adhere to the principles of the UN Global Compact (for further information, see [www.unglobalcompact.org](http://www.unglobalcompact.org)).
- 24.2 The Company will adhere to all valid laws and regulations in Australia and if the Services are not performed for TRA in Australia the valid laws and regulations of the country in which the Services are performed and of the country in which the recipient of the Services has its legal headquarters.
- 24.3 The Company will adhere to all applicable environmental laws, regulations, and guidelines. Where possible, environmentally friendly products or fair trade products will be offered by the Company to TRA and treated as equal to products with conventional pricing.
- 24.4 The Company will refrain from:
- (a) offering or granting money, gifts, trips, or other benefits to employees, brokers, representatives and contractors of TRA or third parties who have a business relationship with TRA;

- (b) participating in actions of any kind, which results in the expending of Company funds for illegal or immoral purposes, including those of a monetary nature, in order to create advantages for itself;
- (c) offering TRA employees or their families monetary or other benefits; or
- (d) transferring or using monies from illegal and immoral business transactions or in order to conceal their original source (money laundering) or using money whose origin it is not able to document or whose sources are in doubt.

24.5 Making false, misleading or manipulative statements in connection with tendering and contract award procedures, as well as in the performance of Services. The Company acknowledges such conduct is or may be a criminal offence that TRA will be entitled to report immediately to the authorities. Such conduct will give TRA a right to immediately terminate these Terms and Conditions and any Purchase Orders.

24.6 The Company declares and guarantees to TRA, that the Company's representatives, directors and managers as well as the Company itself:

- (a) are not and have never been associated with any organized crime groups,
- (b) do not utilize organized crime groups and
- (c) will not defame or tarnish TRA or impede TRA's business or make undue claims.

## **25. Force majeure**

If TRA suffers in the operation of its business a force majeure event, or if TRA, in the provision of its own services to its customers suffers a force majeure event such that work is interrupted for TRA or its customer, in particular without limitation as a result of strike, lockout, short time work, system failures, or other cases of force majeure, TRA can request an interruption or delay in the Company's performance of the Services without incurring additional costs for TRA. The Company must agree to this request provided it is reasonable.

## **26. Applicable law, arbitration and place of performance**

26.1 The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms and Conditions and all Purchase Orders, and is expressly excluded.

26.2 These Terms and Conditions are governed by the law of Victoria, Australia and the parties submit to the non-exclusive jurisdiction of the courts of that state.

26.3 All Services provided by Company will be deemed to be provided in Victoria, Australia

## **26. Miscellaneous**

26.1 These Terms and Conditions may be amended or modified only by an instrument in writing signed by authorised representatives of the parties.

26.2 In the event any clause of these Terms and Conditions may be determined by any governmental body having jurisdiction over these Terms and Conditions, or by any court of competent jurisdiction, to be unenforceable, the balance of the Terms and Conditions will be severed from the unenforceable part and will remain in full force and effect unless a failure of consideration would result.

26.3 Any failure by TRA at any time to enforce any right under these Terms and Conditions will not be interpreted as a change of the Terms and Conditions, or as TRA's waiver to exercise any of its rights under these Terms and Conditions. Any waiver by TRA must be in writing.

26.4 These Terms and Conditions, together with any Purchase Orders, is the entire agreement between the parties with respect to the subject matter contained in them and supersede any oral or written communications, understandings, acknowledgements or representations or agreements.

- 26.5 Any notice under these Terms and Conditions must be in writing and will be deemed to be duly served if sent by prepaid registered mail or email to the address or email address most recently notified by the party receiving the notice. If a notice is provided by email, the notice will be deemed sent when the email (including any attachment) is sent to the receiving party, unless the sending party receives a notification of delivery failure within 24 hours of the email being sent.
- 26.6 Clauses 4.2, 11, 13, 18, 19, 25 and 26 survive expiration or termination of these Terms and Conditions.
- 26.7 No provision of these Terms and Conditions will be interpreted against a party solely because that party put that provision forward.