

1. Scope of application

1.1. The below conditions shall apply to the agreed services including advisory services, the provision of information, deliveries and the like and to auxiliary services and other subsidiary obligations performed in execution of the contract.

1.2 Any general terms and conditions of business of the client including any purchasing terms and conditions shall not apply and are hereby excluded. Contractual terms and conditions of the client shall not form a part of this contract even if this is not expressly reiterated by AMD TÜV Arbeitsmedizinische Dienste GmbH.

2. Quotations

All quotations made by AMD TÜV Arbeitsmedizinische Dienste GmbH are subject to change, unless otherwise agreed.

3. Entry into force and duration of contracts

3.1 The contract shall enter into force upon the signing of the quotation letter from AMD TÜV Arbeitsmedizinische Dienste GmbH or of a separate contractual document by both contractual parties, or upon AMD TÜV Arbeitsmedizinische Dienste GmbH performing the work requested by the client. If the client orders work to be carried out by AMD TÜV Arbeitsmedizinische Dienste GmbH without a prior quotation from the AMD TÜV Arbeitsmedizinische Dienste GmbH (offer), AMD TÜV Arbeitsmedizinische Dienste GmbH is entitled, at its sole discretion, to accept the order in a written declaration of acceptance (including electronically) or by performing the ordered services.

3.2 The contractual period begins upon the contract's entry into force, as defined in Section 3.1, and continues for the period agreed in the contract.

3.3 If the contract provides for a renewal of its duration, the contract shall be renewed for the respective period envisaged in the contract, unless the contract is cancelled by one of the contractual parties prior to the contract's renewal date by giving 6 weeks' notice in writing.

4. Scope of services

4.1 With regard to the scope of services, just one concordant declaration delivered by both sides shall be authoritative. If there is no such declaration, the written order confirmation of the AMD TÜV Arbeitsmedizinische Dienste GmbH shall be authoritative.

4.2 The agreed services shall be performed in compliance with the provisions that apply at the time the contract is signed.

4.3 Furthermore, AMD TÜV Arbeitsmedizinische Dienste GmbH is entitled to determine the methods and na-

ture of the inspection itself, at its own appropriate discretion, unless written agreements specifying otherwise have been made or mandatory provisions require a certain procedure to be followed.

4.4 When AMD TÜV Arbeitsmedizinische Dienste GmbH carries out its activities, it takes no simultaneous responsibility for the regularity (proper, problem-free condition) and good working order of assessed or tested parts, or for the equipment as a whole and its up- and downstream processes, organisation, application and use according to its intended use or for the systems on which the equipment is based; in particular no responsibility is taken for the inspected equipment's design, material selection and construction or their application and use according to intended use, unless these matters are an express subject of the order.

4.5 In case of inspection orders, AMD TÜV Arbeitsmedizinische Dienste GmbH is not responsible for the accuracy or review of the safety programmes or safety procedures on which the inspections are based, unless otherwise agreed in writing.

4.6 The AMD TÜV Arbeitsmedizinische Dienste GmbH shall be entitled to use one or more subcontractors without the express consent of the client in order to fulfil its contractual obligations.

5. Periods/deadlines for performing the services

5.1 The performance times and deadlines agreed in the contract shall be based on estimates of the scope of work according to the particulars supplied by the client. They shall be binding only if AMD TÜV Arbeitsmedizinische Dienste GmbH gives written confirmation that they are binding.

5.2 If deadlines have been agreed upon and are binding, they shall begin only after the client of AMD TÜV Arbeitsmedizinische Dienste GmbH has submitted all necessary documents. This similarly applies to deadlines which are extended by a period of delay for which TÜV Arbeitsmedizinische Dienste GmbH is not responsible, including without the express permission of the client.

6. Cooperation

6.1 The client shall guarantee that all cooperation required of it, its agents or third parties will be provided in good time and at no cost to AMD TÜV Arbeitsmedizinische Dienste GmbH.

6.2 Documents, supplies, auxiliary staff, etc. necessary for performance of the services shall be made available free of charge. Moreover, the client's cooperation must comply with the legal provisions, standards, safety regulations and accident prevention rules applicable in each case.

6.3. The client shall bear any additional cost incurred on account of work having to be redone or being delayed as a result of tardy, incorrect or incomplete information or lack of proper cooperation. Even where a fixed or maximum price is agreed, AMD TÜV Arbeitsmedizinische Dienste GmbH shall be entitled to charge extra for such additional expenses.

7. Invoicing

7.1 If the scope of services is not specified in writing when the work order is given, the services shall be invoiced according to their cost. If the fee is not agreed in writing, the services shall be invoiced according to the AMD TÜV Arbeitsmedizinische Dienste GmbH prices applicable at the time the services are provided.

7.2 Unless otherwise agreed, the services shall be invoiced in line with the progress of the work.

7.3 If the work order extends beyond a period of one month, AMD TÜV Arbeitsmedizinische Dienste GmbH may request advance payments or partial payments.

8. Terms of payment

8.1 All invoice amounts shall be due for payment immediately without deduction on receipt of the invoice. No discounts shall be granted.

8.2 Payments shall be made to the bank account of AMD TÜV Arbeitsmedizinische Dienste GmbH as specified on the invoice, stating the invoice and customer number.

8.3 In the event of late payment, AMD TÜV Arbeitsmedizinische Dienste GmbH is entitled to claim interest at a rate of 8 % above the base rate of the Deutsche Bundesbank. The right is also reserved to claim further damage.

8.4 If the client is still in arrears with the settlement of the invoice after being given a reasonable additional amount of time to pay, AMD TÜV Arbeitsmedizinische Dienste GmbH is entitled to terminate the contract, withdraw the certificate, claim compensation on grounds of non-fulfilment and refuse to perform the further contractual services.

8.5 The provisions of Section 8.4 also apply in case of non-payment of a cheque, stoppage of payments, insolvency proceedings being opened against the client or dismissal of the insolvency proceedings due to lack of assets.

8.6 Objections to invoices issued by AMD TÜV Arbeitsmedizinische Dienste GmbH must be submitted in writing within two weeks of receipt of the invoice.

8.7 AMD TÜV Arbeitsmedizinische Dienste GmbH is entitled to request an appropriate advance payment for costs.

8.8 AMD TÜV Arbeitsmedizinische Dienste GmbH is entitled to increase its prices at the start of any month due to increased overheads and/or delivery costs. This will be done by written notification, which must be submitted one month (amendment period) prior to the proposed implementation. If the price increase per contract year does not exceed 5%, the client will have no special termination right by reason of this price increase. In the event of a price increase of more than 5 % per contract year, the client will be entitled to terminate the contractual relationship at the end of the amendment period. Otherwise the changed prices will be deemed to be agreed upon expiry of the amendment period.

8.9 Only legally established or undisputed claims may be offset against claims by AMD TÜV Arbeitsmedizinische Dienste GmbH.

9. Acceptance

9.1 Any part of the work ordered which is complete in itself may be presented by AMD TÜV Arbeitsmedizinische Dienste GmbH for acceptance as a part performance. The client shall be obliged to accept it immediately.

9.2 If the client fails to fulfil its obligation immediately, acceptance shall be deemed to have been taken place four calendar weeks after performance of the work, provided AMD TÜV Arbeitsmedizinische Dienste GmbH has made specific reference to the aforementioned deadline to the client upon performance of the service.

10. Confidentiality

10.1 Confidential information" within the meaning of this Agreement includes all information, documents, images, drawings, expertise, data, samples and project documents supplied, transferred or otherwise disclosed by one Party ("disclosing party") to the other Party ("receiving party") during the period of validity of this Agreement. This also includes copies of said information in printed and electronic format.

10.2 All confidential information sent in writing must be marked as confidential by the disclosing party prior to transmission to the receiving party; this also applies to confidential information sent by e-mail. Confidential information that is transmitted verbally must be indicated as such beforehand.

10.3 All confidential information sent or otherwise made accessible to the receiving party by the disclosing party in accordance with this Agreement,

a) Must be used by the receiving party exclusively for the respective purpose of the contract unless otherwise expressly agreed in writing with disclosing party,

b) Must not be copied, distributed, published or otherwise transmitted by the receiving party in any other format, un-

less this is necessary to fulfil the purpose of the contract or unless AMD TÜV Arbeitsmedizinische Dienste GmbH is obliged by law or under official regulations to transmit confidential information, test reports and documentation to authorities or third parties involved in the performance of the contract.

c) Must be handled confidentially by the receiving party in the same way that the receiving party would handle its own confidential information, namely with due care and diligence.

10.4 The receiving party shall only disclose the confidential information provided by the disclosing party to employees who require such information for the provision of services in accordance with the purpose of this Agreement. The receiving party must bind its employees to the same degree of confidentiality as set out in this Confidentiality Agreement.

10.5 Confidential information within the meaning of this Agreement does not include information for which the receiving party can reasonably prove that

a) The information was already generally known or publicly known at the time of disclosure without any breach of this Agreement, or

b) The receiving party obtained the information from a third party authorised to pass on such information to the receiving party, or

c) The information was already known to the receiving party before being disclosed by the disclosing party, or

d) The receiving party devised the information itself independently of the information being sent by disclosing party.

10.6 Confidential information shall remain the property of the disclosing party. The receiving party hereby agrees to immediately return (i) all confidential information, including copies, to the disclosing party when requested by the disclosing party or automatically on termination or expiry of this contract or to (ii) destroy all confidential information, including copies, when requested by the disclosing party and to confirm completion of this destruction in writing to the disclosing party. The above excludes the reports and certificates drawn up for the client exclusively in order to fulfil the contractual obligations of this contract, and these shall remain with the client. However, with regard to this and the confidential information that forms the basis for writing these reports and certificates, AMD TÜV Arbeitsmedizinische Dienste GmbH is entitled to file in its records copies of this information to prove the correctness of its results and for general documentation purposes.

10.7 The receiving party agrees to handle confidential information with the strictest confidence from the start of the contract and for a period of three years following termination of the contract, to

keep the confidential information secure from third-party access and to refrain from using the confidential information for its own purposes.

10.8 The further documentation/retention periods and confidentiality obligations for all information subject to medical confidentiality also apply. Furthermore, there is no retention obligation following acceptance of the result, unless legal obligations and/or contractual agreements exist which require this.

11. Intellectual property rights

11.1 All copyrights including joint copyrights in the expert reports, test results, calculations, descriptions, etc. produced by AMD TÜV Arbeitsmedizinische Dienste GmbH shall remain with AMD TÜV Arbeitsmedizinische Dienste GmbH.

11.2 Expert reports, test results, calculations, descriptions etc. produced in connection with the order may be used by the client only for their agreed intended purpose.

11.3 The client may disseminate test reports etc. only in complete and unbridged form. Any publication or reproduction for advertising purposes requires in each individual case the prior written permission of AMD TÜV Arbeitsmedizinische Dienste GmbH.

12. Liability

12.1 The liability of AMD TÜV Arbeitsmedizinische Dienste GmbH for damage and expenses caused by bodies and/or employees of AMD TÜV Arbeitsmedizinische Dienste GmbH is limited, irrespective of the legal basis, in particular in case of breach of obligations from the contractual obligations and for unauthorised actions, to ten times the payment amount for the total order in case of contracts with a fixed overall payment sum, to the agreed annual payment in case of contracts for services performed on an annual basis, to a maximum of 20,000 euros in case of contracts which are to be expressly invoiced according to costs, and to three times the payment amount of the respective individual order in case of framework agreements with an individual call-off option, in relation to which the damage or expense has occurred. The liability of AMD TÜV Arbeitsmedizinische Dienste GmbH is limited to a maximum of 250,000 euros for each case of damage.

12.2. The limitation of liability specified above in Section 12.1 shall not apply if damage is attributable to malice, the wilful or grossly negligent conduct of legal representatives of AMD TÜV Arbeitsmedizinische Dienste GmbH or its vicarious agents, to such damage relating to a breach of obligations which AMD TÜV Arbeitsmedizinische Dienste GmbH has guaranteed to fulfil, or to damage arising from death, physical injury or damage to health, or to damage subject to liability under the German Product Liability Act.

12.3. Should a cardinal obligation be breached, AMD TÜV Arbeitsmedizinische Dienste GmbH shall also be liable in the case of slight negligence. Cardinal obligations in this regard are key contractual obligations that must be fulfilled in order to duly execute the contract and that the client can trust to be fulfilled. In the event of a breach of a cardinal obligation, the entitlement to compensation shall be limited to the damage that was typical and foreseeable as the possible consequence of the breach of contract (typical foreseeable damage) at the time of the breach of obligation, unless any of the situations specified in Section 12.2 exists.

12.4. AMD TÜV Arbeitsmedizinische Dienste GmbH shall not be liable for personnel made available by the client to support AMD TÜV Arbeitsmedizinische Dienste GmbH in its provision of the services to be provided under this contract unless the person-

nel provided are regarded as vicarious agents of AMD TÜV Arbeitsmedizinische Dienste GmbH. Where, in accordance with the previous sentence, AMD TÜV Arbeitsmedizinische Dienste GmbH is not liable for personnel made available, the client shall indemnify AMD TÜV Arbeitsmedizinische Dienste GmbH against any third party claims.

12.5 The limitation period for compensation claims is based on the statutory provisions.

12.6. The above provisions shall not imply any change of the burden of proof to the detriment of the client..

13. Partial invalidity, Written form, Place of jurisdiction

13.1 There are no supplementary agreements to this contract.

13.2 Amendments and supplements shall be legally valid only if they are

made in the written form; the same applies to amendments and supplements to this written form clause.

13.3 Should one or more of the provisions of this contract be invalid, the contractual parties shall agree upon a legally valid replacement provision that is as close as possible to the legal and economic intent of the invalid provision.

13.4 The place of jurisdiction for all disputes in connection with this contract is Cologne. This contract is subject to German substantive law.

13.5 The place of performance shall be the place where the agreed services are to be performed, or otherwise the registered office of AMD TÜV Arbeitsmedizinische Dienste GmbH.

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