

1. Scope

1.1 The conditions stipulated below apply to the agreed services as well as secondary services and other related duties performed during execution of the contract.

1.2 The client's general terms and conditions if any, including purchase conditions, shall not apply and are hereby excluded. Contractual conditions stipulated by the client are also excluded from this contract, even if not contradicted explicitly by TÜV Rheinland Schniering GmbH - hereinafter also referred to as TR Schniering.

2. Offers

All offers by TR Schniering are subject to confirmation, unless otherwise agreed.

3. Formation and term of the contract

3.1 The contract comes into effect when the written offer is signed by TR Schniering, or a separate contractual document is concluded by both parties, or work requested by the client is performed by TR Schniering. If the client appoints TR Schniering without prior submission of an offer by the latter, TR Schniering is entitled, at its sole discretion, to accept the appointment by giving written notice of acceptance (including electronic format) or by providing the ordered services.

3.2 The term of the contract begins on formation of the contract pursuant to Item 3.1 and lasts for the contractually agreed period.

4. Scope of services

4.1 A concurrent declaration submitted by just one of the two sides suffices for the scope of services. In the absence of such a declaration, written confirmation by TR Schniering is decisive.

4.2 The agreed services are rendered in compliance with the regulations (ZTV ZEB-StB) applicable at the time of contract conclusion.

4.3 TR Schniering is furthermore entitled to determine the method and type of service provision at its own, appropriate discretion, unless written agreements have otherwise been reached, or a different course of action is necessitated by mandatory provisions.

4.4 Execution of activities does not carry any guarantee of correctness (perfect condition) or functionality, either of inspected/approved parts or the entire facility and its upstream/downstream processes, organizations, intended application and use, or underlying systems; in particular, no responsibility is accepted for design, material selection, construction or intended application/use as part of inspected equipment, unless these issues are not explicitly addressed in the order.

4.5 In the case of inspection orders, TR Schniering is not responsible for accuracy or verification of the security programs or provisions underlying the inspections, unless otherwise agreed in writing.

4.6 Goods and services are upgraded on an ongoing basis. Slight deviations potentially resulting between actually delivered goods/services and ordered items are permissible and considered as contractual fulfillment if not restricting utility or applicability for the customer.

5. Service provision dates/deadlines and delays due to bad weather

5.1 The contractually agreed service provision periods and dates are based on estimates of the scope of work in accordance with information provided by the client. They are only binding if confirmed as such in writing by TR Schniering.

5.2 Deadlines which have been agreed as binding become effective only once the client has provided TR Schniering with all the necessary documents. This applies similarly, even without the client's explicit consent, to agreed deadlines extended by delays for which TR Schniering is not responsible.

5.3 The client is aware that inspection services due from TR Schniering can only be rendered under appropriate weather conditions - dry/drying surfaces with a temperature between 5 and 50 degrees Celsius - also termed inspection boundary conditions hereinafter. Should moisture or temperatures outside the afore-mentioned limits prevent TR Schniering from carrying out inspection tasks by the agreed date, the deadline is postponed until achievement of the afore-mentioned temperature range and drying conditions, without TR Schniering being considered to default as a result. In this case, however, TR Schniering must perform the corresponding inspections immediately after attainment of the necessary boundary conditions.

6. Contract modifications

6.1 If one of the two contract parties desires a modification or amendment to the agreement, said parties will convene to examine the extent to which an appropriate implementation is possible, and on what terms this is achievable.

6.2 The contract's current contents shall remain in effect for as long as contract modifications cannot be agreed upon.

7. Client's obligations to cooperate

7.1 The client provides all the cooperation necessary on the part of said client, their assistants and third parties to TR Schniering punctually and free-of-charge.

7.2 Design documents, auxiliary materials, temporary staff etc. needed for service provision are made available to TR Schniering free-of-charge. Furthermore, the client's cooperative actions must comply with applicable laws, standards and safety and accident prevention regulations.

7.3 The client bears all additional costs incurred through work that is repeated or delayed as a result of late, inaccurate or incomplete information or inadequate cooperation. TR Schniering is entitled to charge such additional costs even if fixed or maximum prices have been agreed.

8. Billing of services

8.1 If the scope of services was not specified in writing upon placement of the order, billing is performed according to expenditures.

8.2 Unless agreed otherwise, services are settled according to the progress made in rendering said services.

8.3 If the order fulfilment period exceeds one month and the order's value or agreed fixed price exceeds 2,500 €, TR Schniering is entitled to request down payments or instalments.

9. Payment conditions/transfer

9.1 All payments are due without deductions immediately following invoice receipt in each case. Discounts are not granted.

9.2 All prices apply from TR Schniering's headquarters in Essen, plus applicable VAT.

9.3 Deliveries cost extra.

9.4 Payments are to be made, quoting the invoice and customer numbers, to TR Schniering's bank account indicated on the invoice.

9.5 In the event of default, TR Schniering is entitled to demand an interest of 9% above the German Central Bank's base lending rate. Claims concerning further damages may nonetheless be raised.

9.6 If the client defaults on payment of an invoice despite a reasonable extension having been granted, TR Schniering may withdraw from the contract, revoke issued certificates, claim compensation for damages due to non-fulfilment, and refuse provision of further contractual services.

9.7 The clause in Item 9.6 also applies to non-payment of checks, cancellation of payments, opening of insolvency proceedings against the client, or refusal to open insolvency proceedings for lack of assets.

9.8 Objections to invoices from TR Schniering are to be submitted in writing within 2 weeks after receipt of the respective invoices.

9.9 TR Schniering is entitled to increase its prices at the beginning of the month if overhead and/or purchase costs rise. This is done through written notice, which must be dispatched 1 month (amendment deadline) prior to planned inception. If the price increase does not exceed 5% per contract year, the client has no special right of termination based on such price increase. In the event of a price increase exceeding 5% per contract year, the client is entitled to terminate the contract by expiry of the amendment deadline, otherwise the new price shall apply as agreed.

9.10 Claims raised by TR Schniering can only be offset with claims which are legally established or undisputed.

9.11 The client is not entitled to transfer rights or obligations arising from this contract.

10. Acceptance of services

10.1 TR Schniering may submit every completed service segment forming part of the contract for acceptance as a sub-service. The client is obliged to implement the acceptance procedure immediately.

11. Confidentiality

11.1 "Confidential information" as per this agreement is all information, documentation, images, drawings, know-how,

data, samples and project documents submitted, transferred or otherwise disclosed during the term of this agreement by one party ("disclosing party") to the other party ("receiving party"). This includes copies of the information in printed and electronic form.

11.2 All confidential information communicated in written form is to be furnished by the disclosing party with a reference to confidentiality prior to transmission to the receiving party; this also applies to confidential information sent via e-mail. Advance notification must be provided in the case of verbally transmitted confidential information.

11.3 All confidential information communicated or otherwise made available by the disclosing party to the receiving party pursuant to this agreement:

a) may be used by the receiving party only to fulfil the respective contractual purpose, in the absence of a different, explicit, written agreement with the disclosing party;

b) must not be copied, published or relayed in any other form by the receiving party, unless this is necessary for fulfilling the respective contractual purpose or TR Schniering is obliged by statutory or regulatory provisions to relay confidential information, test reports and documentation to authorities or third parties involved within the framework of contract fulfilment;

c) must be kept confidential by the receiving party as though it were this party's own confidential information, but no less carefully than objectively required.

11.4 The receiving party makes confidential information from the disclosing party accessible only to those employees who require this information to render services for the purpose of this agreement. The receiving party must commit such employees to the same measure of confidentiality as that set forth in this agreement.

11.5 Confidential information according to this agreement does not include information which the receiving party can demonstrate as:

a) being generally known already at the time of disclosure, or having become known to the general public without any breach of this agreement, or

b) having been obtained by the receiving party from a third party which was entitled to relay this information, or

c) being in the receiving party's possession already before communication by the disclosing party, or d) having been produced independently by the receiving party prior to communication by the disclosing party.

11.6 Confidential Information shall remain the property of each disclosing party. The receiving party hereby gives its consent - at any time on request by the disclosing party, but no later than expiry of this contract without special request by the disclosing party - to immediately (i) return all confidential information, including all copies thereof to the disclosing party, or at the request of this party (ii) destroy the confidential information, including all copies thereof, and confirm destruction in writing to the disclosing party. This does not include reports and certificates prepared for the client solely to fulfil the obligations imposed by this contract - these documents remain in the client's possession. As regards these reports and certificates as well as the confidential information forming the basis for preparing them, however, TR Schniering entitled to file away copies as proof of proper performance and for general documentation purposes.

11.7 The receiving party keeps confidential information under strict secrecy from commencement of the contract until 3 years after its termination, without making such information available to third parties or utilizing it for its own purposes.

12. Intellectual property and copyrights

12.1 The client acknowledges that all patents, designs, trademarks, copyrights (including software copyrights) and other proprietary rights including non-patented, confidential production methods and/or know-how employed in connection with, or incorporated into, all products types, and/or software forming part of these products or accompanying them remain the sole property of TR Schniering or its licensors.

12.2 Nothing in this agreement or any contract to which it is applicable is to be interpreted as an explicit or implicit grant or transfer of licensing rights, other rights related to patents, designs, trademarks, copyrights, or further proprietary rights including those related to non-patented production methods to the client, except to the extent that this is necessary to perform the activities expressly stipulated by the provisions of this agreement.

12.3 The client may use reports, test results, calculations, illustrations, etc. prepared within the framework of this contract only for the agreed purposes.

12.4 The client may not modify or abridge the reports, test results, calculations, illustrations, etc. prepared within the framework of this contract.

12.5 If a third party raises a claim against the client with respect to goods or services provided by TR, with the

assertion of a violation of patent, design, copyright, trademark, trade secret or other proprietary right through the use, sales, presentation, or other disposal of the goods or services supplied by TR Schniering under this contract to the client, TR Schniering at their own expense shall arrange a defence against such claims or shall settle them while exempting the client from costs, attorneys' fees and other expenses or damage compensation necessary for defence or settlement, regardless of whether such claims prove successful; as a prerequisite here, however, the client must immediately notify TR Schniering in writing about such claims, submit copies of all letters and other documents regarding the alleged infringement, and grant TR Schniering full approval for defence or settlement of the claims, proceedings and/or alleged infringement.

12.6 The client is to observe TR Schniering's instructions and make no admission of liability. Without its prior written consent, TR Schniering is not liable for costs, attorneys' fees or other expenditures, settlements or compensation incurred by the client.

12.7 At the request of TR Schniering, the client consents to support TR Schniering in such defence and/or settlement, and/or cooperate with TR Schniering for this purpose.

12.8 Notwithstanding the foregoing, TR Schniering is not committed to defence or settlement, nor liable for costs, attorneys' fees or other expenses/damage compensation if the violation is the result of an addition or alteration to goods or services, or a combination of these with other goods or services following delivery by TR Schniering, or a practical application of the goods or services as part of processes or systems not intended by TR Schniering.

13. Liability of TR Schniering

13.1 TR Schniering's liability for damages and expenses caused by its own institutions and/or employees - regardless of the legal reason, especially in case of breach of contractual obligations, or tort to the extent that the related agreements involve a fixed total remuneration - is limited to three times the remuneration for the overall contracts, or the agreed annual remuneration for contracts involving annual, recurrent services, or three times the remuneration for each individual agreement in the case of skeleton contracts with single-call options, in relation to which the damages or expenses were incurred; in each of these cases, however, the liability is limited to a maximum of EUR 2.5 million.

13.2 Limitation of liability pursuant to Item 13.1 does not apply to damages attributable to intent, gross negligence or fraudulence on the part of TR Schniering or its assistants, or damages attributable to breach of obligations for whose fulfillment TR Schniering has assumed a guarantee, or damages involving harm to life, limb or health, or damages covered by the product liability laws.

13.3 TR Schniering is liable for breaches of cardinal obligation, including those due to minor negligence. Cardinal obligations in this respect are essential contractual obligations whose fulfillment is essential for enabling proper execution of the contract, and whose compliance the client should be able to rely on. Entitlement to damage compensation for breach of a cardinal obligation is limited to the amount of the damage typical and predictable as a possible consequence (reasonably foreseeable damage) of the contractual breach at the time, unless any of the cases mentioned in Item 13.2 is involved.

13.4 TR Schniering is not liable for workers supplied by the client as support in rendering the services due from TR Schniering in accordance with this contract, unless the supplied workers can be considered as assistants of TR Schniering. To the extent that TR Schniering is not liable for supplied workers according to the preceding clause, the client indemnifies TR Schniering against any claims raised by third parties.

13.5 The period of limitations for damage compensation claims is governed by statutory regulations.

13.6 Changes in burden of proof to the client's detriment have no bearing on the preceding provisions.

14. Partial invalidity, written form, legal venue, applicable law

14.1 Collateral agreements to this contract are not met.

14.2 Amendments and additions must be in writing to be legally effective; this also applies to amendments and additions to this provision concerning the written form.

14.3 If one or more provisions of this contract prove invalid, the parties to the contract are to replace each invalid provision with one which is legally valid and closest in the judicial and economic sense.

14.4 The legal venue for all disputes arising in connection with this contract is Cologne.

14.5 This contract is subject to German substantive law excluding the UNCITRAL agreement on international sale of goods dated 11th April 1980.

14.6 The client agrees that TR Schniering is entitled to save and process personal data for their own purposes in compliance with the German Federal Data Protection Act.

14.7 The place of performance for goods and services is DE 45356 Essen.

Additional conditions for purchase of goods and software

In addition to the general terms and conditions, the provisions set forth in Items 15 to 19 below govern sales of goods and software by TR Schniering to the client.

15. Deliveries of goods and transfer of risk

15.1 Goods are supplied at the client's expense. Goods as well as spare parts are delivered with carriage unpaid. If the client desires special transportation such as delivery by courier etc., said client shall also bear the resultant additional costs.

15.2 Deliveries are performed at the client's risk.

15.3 In each case, risk is transferred to the client on dispatch or handover to the carrier.

15.4 By signing the delivery note accompanying a delivered consignment, the client confirms receipt of delivery as well as concurrence between the number of actually delivered items and the quantities specified in the shipping documents.

15.5 Complaints by the client concerning any visible transport damage must be issued immediately in writing on the delivery note. Complaints concerning any concealed damage must be reported to TR Schniering in writing no later than seven work days after the delivery date as per the bill of freight and transport documents.

15.6 Shortages or discrepancies in quantities are to be reported to TR Schniering within two work days of delivery.

15.7 TR Schniering is entitled to levy a handling charge of 30 € plus VAT for delivery records demanded by the client despite correct transfer.

16. Retention of title

16.1 TR Schniering retains title to all goods supplied by it (ownership of goods is reserved) until the client has paid the purchase price in full.

16.2 The client must immediately notify TR Schniering of any third-party foreclosures of goods delivered under reservation of ownership, and provide the documents necessary for intervention. The costs of intervention are borne by the client in each case.

16.3 If the client is in arrears with payments, or the client's financial situation deteriorates substantially, TR Schniering may request issue of reserved goods after withdrawing appropriately from the contract.

16.4 Reserved goods are taken back in accordance with the proceeds obtained, but at no more than the agreed price. If prices have dropped in the meantime, the price valid on the day of redemption is authoritative. TR Schniering reserves the right to further claims for damage compensation, especially loss of earnings. Goods subject to retention of title and already in use may be returned at a price equal to no more than the residual worth established by TR Schniering.

16.5 If the client does not acknowledge residual worth established by TR Schniering, said client must submit to establishment of residual worth by a neutral expert. This establishment is binding for both parties. The cost of engaging the expert is borne by the client.

17. Software

17.1 The client is granted a simple, non-exclusive and non-transferable right to internal use of software developed by TR Schniering or third parties (suppliers independent of TR Schniering) as well as accompanying documentation and subsequent upgrades, in conjunction with the products for which said software was delivered.

17.2 All other rights to software and documentation, including copies and subsequent upgrades, are retained by TR Schniering or the independent software suppliers.

17.3 If any special conditions for licensing delivered software have been stipulated by TR Schniering or the software producers, these conditions then govern the nature and extent of the transferred right of use.

17.4 The client ensures that this software and related documentation remain inaccessible to third parties without prior written consent by TR Schniering.

17.5 Copies may generally only be made for archival, as substitutes or for troubleshooting; Sub-items 1 and 2 apply here accordingly.

17.6 Any copyright references borne by originals must be furnished by the client on copies too.

17.7 Provision of source programs requires a separate written agreement in each case.

17.8 Software warranties are governed in principle by Item 19 of these conditions.

17.9 In addition to the provisions under Item 19, those mentioned next also govern software deliveries:

a) In accordance with the prevailing state-of-the-art, an occurrence of software bugs at the time of commissioning cannot be ruled out.

b) TR Schniering is responsible only for software errors occurring during regular or contractually prescribed usage. Accordingly, the circumstances of each reported error determine whether or not related warranty obligations apply.

c) In the case of software, instructions to avoid the effects of program errors also count as sufficient remedy.

17.10 Without prior, express written permission by TR Schniering, the client is not authorized to modify, decompile, or disassemble software, or manipulate the program code in any way.

18. Fault reporting and examination duties

18.1 The client must carefully inspect deliveries immediately after receipt, and report any obvious defects in writing at once. Otherwise the deliveries are considered approved. Faults initially unnoticed but discovered upon later examination must also be reported right away by the client to TR Schniering.

18.2 If a fault is reported, the payment due from the client for the delivered goods may be retained in an amount proportionate to the fault which has occurred.

19. Claims in the event of faults on delivered goods

19.1 When issuing a complaint regarding a fault, the client must describe the fault in detail including, in particular, how and under which circumstances the fault occurred.

19.2 If a fault complaint was wrongly issued, TR Schniering is entitled to demand compensation of incurred expenditure or damage from the client.

19.3 All parts or services proving deficient within the statutory period of limitations shall be repaired, replaced or supplied again (supplementary performance) at the discretion of TR Schniering at least within a reasonable deadline and free-of-charge, provided that the cause of the deficiency already existed at the time of transfer of risk.

19.4 If supplementary performance fails, the client may withdraw from the contract or reduce the payment.

19.5 Warranty claims are not recognized in the event of negligible deviations from agreed quality, negligible impairment of utility, natural wear or damage arising after the transfer of risk as a result of improper handling, especially improper repairs, excessive strain, unsuitable equipment or special external influences not provided for by the contract. These include, for example, storage in unsuitable areas, malfunctions caused by other devices or facilities linked to the goods, and malfunctions resulting from adaptations to software not prevalent or available at the time of sale.

19.6 Furthermore, non-reproducible software errors do not count as deficiencies.

19.7 Liability to compensate damage or loss of data attributable to goods delivered by TR Schniering does not cover the expenditure of restoring lost data and information.

19.8 The client must regularly carry out internal data backups to prevent loss of data and information, and minimize potential damage.

19.9 All claims concerning defects expire after 12 months.

19.10 All claims by the client based on expenditures, especially involving transport, travel, labour and material costs, for the purpose of supplementary performance are excluded insofar as these expenditures are attributable to extra costs of deliveries abroad.

19.11 Damage compensation claims are governed by Item 13 (liability) of the general terms and conditions of TÜV Rheinland Schniering GmbH. Claims of defects raised by the client against TR Schniering and its assistants beyond or different to those governed by Items 13 and 19 are excluded.

19.12 Parts replaced by TR Schniering pursuant to item 3.19 are the property of TR Schniering.