

# Government Inspections & International Trade

## Terms and Conditions

### 1. GENERAL

- 1.1. The following Terms and Conditions apply to agreed Pre-Export Verification of Conformity (PVoC) and Commercial Inspection (CI) which comprise of testing, inspection, audit, certification and customized assessment of products and commodities for governments and / or traders.
- 1.2. These Special Terms and Conditions shall apply in addition to the General Terms and Conditions. In case of contradictions these Special Terms and Conditions shall prevail the General Terms and Conditions (available on website / can also be requested from TÜV Rheinland representative).
- 1.3. The client:
  - agrees to comply with the product or commodities verification requirements of the respective PVoC- or CI-program which are communicated and followed by TÜV Rheinland on behalf of the respective Government Authority or Association.
  - acknowledges that, in submitting the signed application that it has not relied on any oral or written representation, warranty, or other assurance (except as provided for or referred to in this application) and waives all rights and remedies which might otherwise be available to it in respect thereof, provided always, that nothing in this clause limits or excludes any liability for fraud.

### 2. GOOD FAITH

- 2.1. TÜV Rheinland represents and warrants that any certificates and / or reports (hereinafter referred to as "deliverables") are issued in good faith and in the reasonable belief that it has authority to do so deriving from, and limited to the authorization by the respective government authority (where applicable).

### 3. SERVICE PROVISION

- 3.1. Unless TÜV Rheinland receives prior written instructions to the contrary from the client, no other party is entitled to give instructions, particularly on the scope of the services or the deliverables resulting therefrom.
- 3.2. The client hereby irrevocably authorizes TÜV Rheinland to provide deliverables to a third party where so instructed by the client or, at its discretion, where it implicitly follows circumstances, trade customs or practice.

- 3.3. TÜV Rheinland and the respective authority reserve the right to request substantiation for the Declaration of Conformity or to enforce testing of the product(s) at any time during the project's period.
- 3.4. The client shall provide access with respect to the PVoC- or CI- program-relevant documents, inspection locations / areas, products / commodities to be inspected, personnel and their subcontractors to ensure unhindered product verification services in due time.
- 3.5. It is recognized by the client that the facts and findings of TÜV Rheinland, with regard to the product / consignment verification service, represent the judgment given after due consideration on the basis of the respective PVoC regulations and standards, trade customs, practices or other circumstances which should be taken into account and to the attendant limitations surrounding the circumstances at the point of intervention.

### 4. ROLE OF TÜV RHEINLAND AND SUBCONTRACTING

- 4.1. TÜV Rheinland acts as PVoC or CI service provider only, based on the information, samples and documents provided by the client and neither as an insurer nor as a guarantor and declines any liability under this heading. The client seeking to guarantee itself against losses or damage will have to obtain adequate insurance coverage at its own expense.
- 4.2. TÜV Rheinland at its sole discretion may use its affiliates, agents or other subcontractors to provide parts or all of the services under a contract with the client without prior notice to the client. The client agrees to disclose all information necessary for such collaboration to the subcontractor and to cooperate duly with the respective subcontractor.

### 5. REGISTRATION / LICENSING AND SURVEILLANCE

- 5.1. Products can be registered / licensed after satisfactory completion of the Verification of Conformity process. Regular surveillance of
  - a. registered products with an inspection on at least half-year basis
  - b. licensed products with an inspection on at least 12 months basis and an annual factory auditis conducted in accordance with the TIC Council "CBCA Code of Practice" guideline to ensure on-going product compliance

with the respective standards and regulations at the client's expense. Government rules may take precedence over the "CBCA Code of Practice".

## 6. CLIENT RESPONSIBILITY

- 6.1. Deliverables are issued on the basis of information, documents and/or samples provided by, or on behalf of, client and solely for the benefit of client who is responsible for acting as it sees fit on the basis of such deliverables. The issuance of a deliverable does not release the client of its obligations regarding any or all discrepancies between the products or services certified, analyzed, audited or inspected and those actually delivered. Neither TÜV Rheinland nor any of its officers, employees, agents or subcontractors shall be liable to client nor any third party for any actions taken or not taken on the basis of such deliverables nor for any incorrect results arising from unclear, erroneous, incomplete, misleading or false information provided to TÜV Rheinland. The client commits to use the deliverables solely for the purpose it has been issued for. Client shall not use deliverables in such a manner which might bring TÜV Rheinland into disrepute. Client shall not make any statement regarding its product certification which might be considered misleading or unauthorized. Deliverables provided by TÜV Rheinland are not intended for settling commercial disputes e.g. between importer and exporter.
- 6.2. The client:
- keeps a record of all customer complaints made known to them relating to compliance with certification requirement of their products and makes these records available to TÜV Rheinland upon request,
  - takes appropriate action with respect to such complaints and any deficiencies found in products that affect compliance with the requirements for certification
  - and documents the actions taken
- 6.3. Copies of the deliverables can only be created in their entirety or as specified by the respective authority

## 7. RIGHT OF TERMINATION

- 7.1. Registration / Licensing is valid for 12 months (or as specified in the relevant PVoC scheme) and is only applicable for the products applied for. The contracts end automatically without a need for termination after the aforementioned period of 12 months. Renewing the registration / licensing is possible and requires a formal application.
- 7.2. TÜV Rheinland may terminate the contract / registration / licensing without notice at any time for good cause.

Cause shall exist in this sense for TÜV in particular, if

- a. the client fails to inform TÜV Rheinland without delay of changes that may influence the product conformity, i.e. modification to quality management system, production process or about a change in the company address,
  - b. if there is a significant deterioration in the financial circumstances of the client and TÜV Rheinland's claims for payment under the contract are at considerable risk and TÜV Rheinland cannot reasonably be expected to continue the contractual relationship,
  - c. in the event of several successive defaults in payment,
  - d. in the event of serious misrepresentations and deceptions, whether caused by intentional or grossly negligent conduct of the executives, employees or representatives of the client;
  - e. if TÜV Rheinland is temporarily or permanently unable or entitled to continue or complete the provision of the service for reasons for which it is not responsible, e.g. in the event of force majeure, government intervention, sanctions, war, loss of accreditation or notifications through no fault of TÜV Rheinland or discontinuation of test bases or standards.
- 7.3. Termination must be in textform (e-mails or written form).
- 7.4. Besides termination, if the client fails to inform TÜV Rheinland without delay about changes, TÜV Rheinland is entitled to increase inspection frequency, trigger an extraordinary factory audit or any other appropriate control mechanism to ensure adherence to respective standards and regulations.
- 7.5. In case of termination for a cause acc. 7.2.a), TÜV Rheinland provides the client a findings report and an overview of terms to be fulfilled to regain the registration / licensed status.
- 7.6. Registration / Licensing rules can be changed any time without prior notice to the applicant.

## 8. FORCE MAJEURE

- 8.1. In the event that TÜV Rheinland is prevented for any reason whatsoever outside its control from carrying out or from bringing services to a successful conclusion for which an order was placed or an agreement concluded, the TÜV Rheinland will be released from any liability for the partial or total non-performance of the services requested. Moreover, the client will pay the TÜV Rheinland:
- All the expenses actually incurred;
  - A proportional share.