

## **General Purchasing Terms and Conditions of TÜV Rheinland Thailand Ltd.**

Hereafter referred to TÜV Rheinland Thailand Ltd. as "TRT".

### **1. General / Scope of Validity**

- 1.1 The following terms and conditions apply exclusively to all purchases, products, and services – hereafter referred to collectively as "services" – commissioned by TRT.
- 1.2 TRT does not recognize any terms and conditions of the company being commissioned to perform the services by TRT (hereafter referred to as "the Company") that contradict these Purchasing Terms and Conditions in full or in part, unless TRT has expressly agreed to their validity in writing.
- 1.3 These General Purchasing Terms and Conditions of TRT will still apply if TRT unconditionally accepts services knowing that the company has contradictory terms and conditions.
- 1.4 In case that there are discrepancies between these Purchasing Terms and Conditions and individual orders, individual orders shall be applied preferentially.

### **2. Scope of services**

- 2.1 The scope of the services to be performed by the company is determined in accordance with the TRT order from or the individual agreement in question.
- 2.2 The Company is responsible for the supervision, monitoring and inspection of the performance of services, as well as for organizational integration into not disturbing TRT's operating process.
- 2.3 The Company confirms that it has received detailed information on the nature and scope of the service agreed to in the assignment and therefore it is not possible for any additional receivables to be claimed as a result of a lack of knowledge.

### **3. Delivery of goods, packaging and Transportation**

- 3.1 The delivery will take place DDU (in accordance with Incoterms 2000) to the address stated in TRT's order. If no address is stated in the order the deliverer will contact either of following offices.

TUV Rheinland Thailand Ltd.  
18/F, Tararom Business Tower  
2445/36-38 New Petchburi Road  
Bangkapi, Huay Kwang,  
Bangkok 10320 Thailand  
Tel. +66 2 314-7021  
Fax +66 2 318 4864

Or

TUV Rheinland Thailand Ltd.  
Global Technology Assessment Center (GTAC)  
123/1, Floor 1-2 , Soi Chalongkrung 31,  
Ladkrabang Industrial Estate , Lamplatew, Ladkrabang Bangkok 10520

Tel.+66 2 326 1333  
Fax.+66 2 326 1334-5

- 3.2 The goods 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 damages that are caused as a result of insufficient packaging or inappropriate transportation.
- 3.4 TRT will be entitled to return or send back the packaging material to the Company.
- 3.5 The returning 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 take place at the agreed time or within the agreed time frame.
- 4.2 If for some reason for which the company is responsible the Company does not adhere to the deadlines, TRT will be entitled to request a contractual penalty of 0.10% of the order total for the order in question for each day of the delay. This contractual penalty is limited to 10% of the order total of the order in question for each breach of contract on the part of the company in connection with the stipulations in clause 4.1. The contractual penalty will be due immediately without any reminder being necessary and without any effect on any of TRT's other legal rights, including the right to require the performance of the agreement or compensation from the Company. The contractual penalty will be offset against any claims to compensation from TRT.
- 4.3 As soon as the company knows or does not know in a grossly negligent manner that the deadline for the service cannot be met at all or will be delayed or that the service will not be performed in accordance with the order, it must inform TRT of this immediately in writing, stating the reasons for this. Without any impairment of TRT's rights as a result of this breach of contract, the contractual parties will decide together whether and how the situation that has occurred can be resolved to the satisfaction of TRT.
- 4.4 Agreed service times or service periods are binding.
- 4.5 Irrespective of this, the company will inform TRT in writing of the precise actual service date in any case a minimum of 3 business days before the performance of the service. The information must include the order number.
- 4.6 TRT will be entitled to postpone the announced service date within a period of 1 day from the time when the information was received from the Company by up to 48 hours, without this postponement being grounds for any additional payment obligation on the part of TRT.
- 4.7 If, regardless of the reasons, TRT asks for the time of performance of the service 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 TRT, at no cost to TRT.
- 4.8 If the Company delivers goods to TRT, it will be obliged to state the name of the requester at TRT and the TRT order number on a label that must be attached to the exterior of the packaging. In addition the Company will be obliged to state the following information (if known) on a label that must be attached to the exterior of the packaging.
  - Brief description of the product
  - Number of items per box or package
  - Serial number of the product

- Weight of the box or package
- Country of origin
- Delivery or production date
- Name and address of the supplier
- All information required under national or international Law

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

5.1 TRT will inspect the goods after delivery for obvious or easily discernible defects.

5.2 If TRT determines that there is a defect, TRT will notify the Company of this within ten (10) business days

(a) of delivery, if a defect of this kind is obvious or easily discernible at the time of delivery

(b) immediately after it is discovered, if the error or defect is only discovered later, e.g. when unpacking, when installing, or at the time when the product is used for the first time.

5.3 If a notification is made about the goods in accordance with clause 5.1, the risk for the defective products will be transferred to the Company when it receives the notification.

5.4 Upon the first request by TRT, the Company must grant TRT access to the premises where the goods are being produced or stored. It will be obliged to provide TRT with support as necessary during this inspection and to provide the necessary documentation and information at its own expense.

## **6. Transfer of ownership**

Ownership and risk with regard to the delivered goods will be transferred to TRT when the delivery is performed in accordance with clause 3.1.

## **7. Amendment procedure**

7.1 If TRT 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. TRT may decide at its own discretion whether the suggested amendments should be made. The amendment will be performed after written notification from TRT. If this 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 TRT.

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

8.1 All materials, parts, containers and special packaging provided by TRT will remain the property of TRT. Processing or alteration by the Company will be performed on behalf of TRT. If goods subject to retention of title by TRT are processed with other items not belonging to TRT, TRT will acquire joint ownership of the new items in line with the ratio of the value of its item to the other processed items at the time of the processing.

8.2 If goods subject to retention of title by TRT are indivisibly mixed with other items not belonging to TRT, TRT will acquire joint ownership of the new items in line with the ratio of the value of its item to the other processed 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

TRT; the contractor will store the sole or joint property on behalf of TRT.

## **9. Cooperation**

- 9.1 The companies will cooperate in a trusting manner and will inform each other immediately of deviations from the agreed procedure or if there are doubts relating to whether the manner of proceeding is correct.
- 9.2 If the company realizes that its own information and requirements are defective, incomplete, unclear, or infeasible, it must inform TRT of this and the consequences discernible to it immediately.
- 9.3 The contractual partners will each name a contact person for each other who will be responsible for the performance of the contractual relationship.
- 9.4 The parties must inform each other immediately of any change in the person names. Until a notification of this kind is received, the contact named previously and/or the contact's representative will be entitled to submit and receive declarations within its previous power of representation.
- 9.5 The contractual partners will agree to hold the meeting at regular intervals on progress and hindrances in the performance of the agreement, in order to be able to intervene in directing the performance of the agreement.
- 9.6 TRT and the company agree that the use of brands, company symbols or other symbols relating to the respective other contractual party is not permitted.

## **10. Payment and invoicing**

- 10.1 The agreed payment can be found in each order from TRT or in the individual agreement concluded between the contractual parties.
- 10.2 The payment in accordance with clause 10.1 will include all additional costs, expenses and outlay by the Company, unless any other arrangement is expressly made in an individual agreement.
- 10.3 If reimbursement for travel and additional costs is agreed in the individual agreement, reimbursement will only be made in exchange for submission of the detailed individual accounts.
- 10.4 Invoicing must take place within 90 days of completed delivery / service.
- 10.5 The service performed is to be documented by attaching proof of performance.
- 10.6 Unless there are written agreements or e-mail stating differently in place, the payment will be made within sixty (60) calendar days of receipt of the invoice created in accordance with clause 10.9 by TRT.
- 10.7 The payment will be made by bank transfer or by other means at the discretion of TRT.
- 10.8 The invoice must meet the legal requirements of the consumer tax as well as stating the order number and the requester at TRT.
- 10.9 TRT will have a right to offsetting and retention in line with the legal level.

## **11. Warranties and additional Remedies**

- 11.1 The Company guarantees that delivered goods will meet the contractual agreements and specifications, as well complying with any purpose stated by TRT or the Company.
- 11.2 This guarantee will remain in place for the legal warranty period.
- 11.3 The Company guarantees that the goods meet all legal requirements and regulations in Thailand, as well as meeting the safety, quality and environmental requirements that are the standard in the industry at the time the delivery is made.

- 11.4 The Company guarantees that services will be performed on time, competently and professionally in accordance with the agreement and will satisfy the strictest standards of the industry in question that are valid at the time of the service.
- 11.5 The Company is aware that the timely performance of services at a high level of quality is of decisive importance to TRT.
- 11.6 Otherwise, TRT will be entitled to full legal claims in case of defects in the services performed by the Company and the legal periods of limitation will apply.
- 11.7 The Company guarantees that upon request it will support TRT with regard to all of TRT's requirements in connection with the internal auditing of TRT and in order to adhere to national or international laws without limitation and at no additional cost to TRT.
- 11.8 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. Intellectual property rights**

- 12.1 All service results in connection with the company's activity within this agreement, in particular also further developments and improvements of the processes and methods developed by TRT will be the exclusive property of TRT.
- 12.2 If service results are capable of being protected, the Company grants TRT a non-exclusive, transferable, free, irrevocable, worldwide right of use with no time limitation.
- 12.3 Company is not entitled to claim compensation for the right of use. These have already been settled by the payment agreed for the service.
- 12.4 The company guarantees that goods that it delivers are its own original developments or have been legally acquired and that its services do not breach any industrial property rights whatsoever or any other third party rights.
- 12.5 The Company will indemnify and hold TRT harmless against any third party claims for breach of intellectual property rights, including trademark, patent, and copyrights, and will also compensate TRT for any damages that it incurs in the form of damages or expenses (e.g. the costs of legal proceedings).
- 12.6 If a claim is made in accordance with clause 12.5 or TRT is justified in assuming that a claim will be made in the future, the Company must ensure at its own expense either the TRT obtains the rights to continue to use and exploit the services performed or replace or modify the services in such a way that there is no longer a breach in place, although the service replaced or modified in this way must be approved by TRT.

## **13. Performance of services**

- 13.1 For services performed by the Company on site on TRT's premises or (virtually) from another location via the TRT IT network for TRT or its customers, the following additional terms and conditions will apply:
- 13.2 During the performance of these services, the employees, contractors, or advisors ("Staff") of the Company must meet the requirements of TRT, and if there are no requirements of this kind in place, must meet the general requirements for professional competence and expertise in the sector in question. If the Staff is insufficiently qualified for the performance of the services, TRT will have the right to require the removal of this Staff. Consequently, the Company will be obliged to ensure that replacements are found immediately.
- 13.3 The Company must provide all materials and equipment, including tools, as are

required for performance of the agreement.

- 13.4 TRT will be entitled to perform an inspection of the materials and equipment used by the Company for the performance of the agreement and to determine the identity of the entire Staff employed by the company in the fulfillment of the agreement. The company guarantees that the entire Staff is in a position to identify itself at any time with identification papers.
- 13.5 If, when inspecting the materials and equipment used by the Company for the performance of the Agreement, TRT justifiably rejects these either in part or in full, the Company will be obliged to replace the rejected materials and equipment immediately.
- 13.6 If services are performed on TRT's premises or on the premises of TRT's customers, the Company must familiarize itself in advance with the situation on site where services are to be performed if this may have an influence on the performance of the contractual obligations. The Company will be responsible for any costs that are incurred as a result of the situation in the performance of the agreement as long as the Company should have recognized the situation during the aforementioned inspection.
- 13.7 TRT will be entitled to equip the Staff of the Company with the necessary identification required for access for the time it will spend on TRT's premises or its customer's premises in accordance with the relevant internal regulations that are valid.
- 13.8 The Company must ensure that its presence and the presence of its Staff on TRT's premises or its customer's premises impedes the uninterrupted working processes of TRT and of third parties to the smallest extent possible.
- 13.9 The Company and its Staff must familiarize themselves with the content of the regulations and policies for TRT's premises or those of its 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 clause 13.9.
- 13.10 The Company will ensure that TRT may have the Staff of the Company and of Subcontractors working on behalf of the Company (with the approval of TRT) sign individual adherence declarations.
- 13.11 The Company will be solely responsible for the compensation of its Staff, as well as for the payment of taxes, social security contributions and VAT connected with the employment to the responsible authorities. The Company will indemnify TRT at all times with regard to receivables of this kind on the part of third parties as a result of unpaid or insufficient payment of wages, taxes, or other contributions by the Company.
- 13.12 Insofar as is necessary, 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 TRT or its customers.

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

The company will be obliged to store all business and operational documentation with which it is provided properly 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 TRT upon request.

#### **15. Acceptance of services**

- 15.1 By depending on the type of service to be performed, TRT will decide whether TRT performs an acceptance.
- 15.2 TRT must inspect the product delivered by the Company with the participation of the

Company (performance of tests and demonstrations, etc.)

- 15.3 The fulfillment of the service features must be decided in accordance with determined acceptance criteria (acceptance test).
- 15.4 A signed record is to be created upon acceptance, which will confirm the compliance of the agreed service. A list of the defects determined during the acceptance will be attached. Any defects that remain after acceptance will be corrected under the guarantee in accordance with a schedule to be drawn up together by both parties.
- 15.5 TRT will accept the services under the contract for services immediately after the transfer and/or successful acceptance test. Defects that do not limit proper use or limit proper use in an insignificant way only do not give TRT any right to refuse to give acceptance. The obligation of the Company to correct defects will not be affected by this. The performance of acceptance before the final correction of defects will be at the discretion of TRT in case of defects that are not insignificant.
- 15.6 If the Company does not manage to provide proof of the agreed service features by the final deadline or if necessary within an appropriate grace period for reasons for which it is at fault, TRT may withdraw from the agreement in full or in part after the expiry of the grace period.
- 15.7 Claims may be made for defects that are fraudulently concealed within a period of 10 years from the time of acceptance.

## **16. Subcontractors**

The awarding of subcontracts to third parties (subcontractors) is not permitted unless expressly agreed otherwise in an individual agreement.

## **17. Liability**

- 17.1 The Company will be liable in accordance with the legal regulations concerned.
- 17.2 The Company will also be obliged to indemnify and hold TRT harmless against third party claims to compensation for damages upon its first request, if the cause is within its area of control and organization and the Company itself is liable in relation to third parties.
- 17.3 The Company must insure itself appropriately against the liability mentioned in this clause and is obliged to allow TRT to view the insurance policy if necessary. Claims to compensation for damages by TRT are not limited to the sum insured in each case.

## **18. Confidentiality**

- 18.1 "Confidential information" in the sense of these General Purchasing Terms and Conditions is all information, documents, images, diagrams, expertise, data, samples, and project documentation surrendered, transferred or otherwise disclosed by TRT to the Company during the term of the assignment or individual agreement between TRT and the Company. This also includes copies of this information in paper and electronic form.
- 18.2 All confidential information that is transmitted or otherwise made available in accordance with this Agreement by TRT to the Company:
- a) May only be used by the Company for the fulfillment of its contractual obligations to TRT, unless there is an expressly deviating written agreement with TRT in existence,
  - b) May not be distributed, published or passed on to third parties in any other way by the Company,
  - c) Must be treated in a confidential manner by the Company, in the same way that the

Company also treats its own confidential information, in any case at least not less carefully than in accordance with the objectively necessary level of care.

18.3 The Company will only make the information disclosed to it by TRT accessible to the employees who require it for the performance of services as part of the agreed performance of services for TRT. The Company will ensure that these employees enter into an agreement to maintain confidentiality to the same extent as that determined in this confidentiality agreement.

18.4 The obligation listed in clause 18.2 will not apply to any confidential information if the Company is able to prove that:

- a) The information was already generally known at the time of publication or became known to the general public without any breach of this agreement, or
- b) The Company received the information from a third party, who was entitled to pass on the information to the Company, or
- c) the information was already in the possession of the Company before it was transmitted by TRT, or
- d) The Company developed the information independently irrespective of transmission from TRT.

18.5 Confidential information remains the property of TRT.

18.6 The Company hereby agrees that it will, at any time upon request by TRT, however, at the latest and with a separate request from TRT after the end of the assignment or individual agreement immediately (i) return all confidential information, including all copies of this to TRT or at TRT's request (ii) destroy the confidential information, including all copies of it, and confirm this destruction to TRT in writing.

18.7 This confidentiality obligation will enter into force after the commissioning of the Company by TRT or upon conclusion of an individual agreement between TRT and the Company.

18.8 The Company will keep strictly secret the confidential information from the time when the agreement ends for a period of 5 years from the ending of the Agreement, will not make the confidential information available to any third party and not exploit the confidential information itself.

18.9 This agreement will not result in any express or implied assignment or granting of authorizations or rights to patents, registered designs, design patents, draft applications, copyrights, templates or trademarks or their utilization by TRT to the company.

18.10

- (1) TRT is entitled to demand compensation for the damage for each case of breach of this confidentiality obligation.
- (2) Each individual violation will be considered a separate breach. The defense of continuation of offence is excluded. In case of ongoing breaches, each week that is begun will be considered an individual breach.
- (3) The right to make a claim for further compensation for damages is reserved. The contractual penalty, however, will be offset against any claims for compensation for damages.

## **19. Data protection**

The Company must adhere to the data protection regulations valid at the time of delivery, irrespective of the area that the delivery is made from and to.

## **20. Right to termination**



- 20.1 Both contractual parties will have the right to terminate the contractual relationship without notice on important grounds.
- 20.2 TRT may terminate the agreement without notice if the Company becomes insolvent, insolvency proceedings are initiated against it, or if corresponding procedural applications were rejected because of a lack of volume to cover the costs.
- 20.3 Termination must take place in writing in order to be effective.

## **21. Environment**

- 21.1 The Company will fully support TRT 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 TRT. In particular, the Company will provide TRT with certain environmentally relevant information on the products purchased from it upon request on a quarterly basis required by TRT as part of ISO certifications.
- 21.2 In case that TRT requires, the Company will send information relating to packaging data, disposal of old equipment and RoHS will be sent to TRT in a timely manner in accordance with the legal stipulations.
- 21.3 The company must compensate TRT for all damages and expenses (including costs for legal proceedings) and for claims by third parties relating to a breach of the RoHS Directive or other applicable environmental regulations by the Company.
- 21.4 In case of environmental accidents caused by the Company or environmental pollution, the Company must inform TRT of this and take appropriate measures for dealing with and take appropriate measures for dealing with an accident of this kind or pollution of this kind, and will also do its best to prevent another similar accident or similar pollution.

## **22. Compliance**

- 22.1 TÜV Rheinland AG is a member of UN Global Compact and will adhere to the principles laid down in this. TRT expects without limitations from the company that it will also comply with and adhere to these principles of the UN Global Compact (for further information, see [www.unglobalcompact.org](http://www.unglobalcompact.org)).
- 22.2 The Company will adhere to all valid laws and regulations in Thailand and if the services are not performed for TRT in Thailand the valid laws and regulations of the country in which the service recipient has its legal headquarters.
- 22.3 In doing so, the company will adhere to the highest known standards, including the applicable specifications for manufacture, pricing, sale, and distribution.
- 22.4 The Company will adhere to all applicable environmental laws, regulations, and guidelines. Where possible, environmentally friendly products or fair trade products will be offered and treated as equal to products with conventional pricing.
- 22.5 The company will refrain from:
- (a) Offering or granting money, gifts, trips, or other benefits to employees, brokers, representatives and contractors of TRT or third parties who have a business relationship with TRT,
  - (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 TRT employees or their families monetary or other benefits,

(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.

22.6 Making false, misleading or manipulative statements in connection with tendering and contract award procedures, as well as in the performance of services, is a criminal offence that TRT will be entitled to report immediately to the authorities.

22.7 The company herewith declares and guarantees TRT, that its representatives, directors or the factual managers as well as the company itself are not (by definition of "crime group members and related groups" as in the "Act on Prevention of Unjust Acts by Organized Crime Group Members") associated to any organized crime groups and have not been in the past either. They do not utilize organized crime groups and do not defame or tarnish TRT or impede TRT's business or make undue claims and neither are its main sponsors or its managers organized crime group members.

### **23. Force majeure**

If work is interrupted for TRT or its client, in particular as a result of strike, lockout, short time work, system failures, or other cases of force majeure, TRT can request an interruption in the Company's work without incurring additional costs for TRT.

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

24.1 The law of Thailand will apply to the exclusion of rules and regulations governing conflicts of law.

24.2 UN Convention on Contracts for the International Sale of Goods will not apply.

24.3 The place of jurisdiction for all disputes arising in connection with this Purchasing Terms and Conditions shall be Bangkok for the benefit of TUV Rheinland Thailand. This contract is governed by Thai law.

### **25. Miscellaneous**

25.1 Additions and alterations to these Purchasing Terms and Conditions including this stipulation must be made in written form in order to be effective.

25.2 If a stipulation of these Purchasing Terms and Conditions is fully or partially legally invalid or infeasible or if it later loses its legal validity or feasibility, this will not affect the validity of the other stipulations of the Purchasing Terms and Conditions.

1 June 2014