

## II. Special Terms and Conditions of Business Stream Systems

The following provisions shall apply in addition to the General Terms and Conditions of TÜV Rheinland Malaysia Sdn Bhd<sup>1</sup> and shall have priority in the event of contradictions.

### 1. Test material: transportation risk and storage

- 1.1. The risks and costs of freight and transportation of documents or test material to and from TÜV as well as the costs of necessary disposal measures shall be borne by the client.
- 1.2. Unless it has been otherwise agreed, test material which has been destroyed or otherwise become worthless shall be disposed of by TÜV at the client's expense.
- 1.3. Upon completion of the test, test material which has not been destroyed shall be stored for four (4) weeks by TÜV. If a longer storage period is desired, TÜV shall charge a reasonable storage fee. During storage, TÜV shall only be responsible for the care which is usually observed when dealing with its own goods or materials.
- 1.4. Upon expiry of the 4 weeks or any longer agreed storage period, the test material shall be disposed of by TÜV for the client at the latter's expense as per Section 1.2.

### 2. Invoicing of services and acceptance

In amendment to Sections 6.2, 6.3 and 8 and supplementing Section 7 of the General Terms and Conditions, the following provisions shall apply to contracts of the client with Business Stream Systems:

- 2.1. Invoicing of services shall take place – unless otherwise agreed – according to performance progress. To this end, 80% of the contractually agreed amount shall be invoiced after performance on site (i.e. after the audit), the remaining 20% as well as travel and incidental expenses after the service has been rendered in full.
- 2.2. If acceptance is excluded according to the nature of the work performance of TÜV, the completion of the work shall take its place
- 2.3. If acceptance is required or contractually agreed in an individual case, this shall be deemed to have taken place two (2) weeks after completion and handover of the work, unless the client refuses acceptance within this period stating at least one defect.
- 2.4. If the client cancels or postpones a confirmed audit date within two (2) weeks before the agreed date, TÜV is entitled to immediately charge a lump-sum compensation of 10% of the order amount as compensation for expenses provided that the client shall be entitled to prove that the TÜV has incurred no damage whatsoever or only a considerably lower damage than the above lump sum.
- 2.5. The provision in Section 2.4 shall apply accordingly if the client was unable to make use of the time windows provided for within the scope of a certification procedure for auditing/performance by TÜV and the certificate is therefore to be withdrawn (e.g. performance of surveillance audits).
- 2.6. Insofar as the client has undertaken in the contract to accept services, TÜV shall also be entitled to charge lump-sum damages in the amount of 10% of the order amount as compensation for expenses if the service is not called within one year after the order has been placed. The client shall be entitled to prove that the TÜV has incurred no damage whatsoever or only a considerably lower damage than the above-mentioned lump sum.
- 2.7. In the case of continuing obligations, TÜV is entitled to increase the prices at the beginning of the month in the event of increased overheads and/or procurement costs. This is done by written notification, which must be sent one (1) month (modification deadline) before the intended entry into force. If the price increase does not exceed 5% per contract year, the client has no special right of termination due to this price increase. In the event of a price increase of more than 5% per contractual year, the client is entitled to terminate the contractual relationship at the end of the modification deadline. Otherwise, the modified prices shall be deemed to have been agreed upon after expiry of the modification period.

### 3. Right of termination /withdrawal of TÜV

- 3.1. Notwithstanding Section 2.2 of the GTC, TÜV and the client are entitled to terminate the contract in its entirety or, in the case of services combined in one contract, each of the combined parts of the contract individually and independently of the continuation of the remaining services with six (6) months' notice to the end of the contractually agreed term.
- 3.2. TÜV and the client are entitled to terminate the contract without notice for good cause.
- 3.3. Cause shall exist in this sense for TÜV in particular, if
  - a) the client does not immediately notify TÜV of changes to circumstances at the company of relevance for the certification or indications of such changes,
  - b) the client uses the certificate or certification mark improperly or contrary to contract,
  - c) a significant deterioration occurs in the financial position of the client, thereby placing payment claims of TÜV under the contract at considerable risk, and it is not reasonable for TÜV to continue the contractual relationship,
  - d) there is repeated consecutive default of payment (at least three times).
- 3.4. In the event of termination without notice for cause by TÜV, TÜV shall be entitled to liquidated damages vis-à-vis the client subject to the conditions of a claim for damages for cause. The client shall in this case pay 15% of the agreed fee up to the end of the stipulated contractual term as liquidated damages. The client retains the right to prove that no damage or considerably less damage exists; TÜV retains the right to prove in a particular case that considerably greater damage exists.
- 3.5. TÜV shall further be entitled to terminate the contract without notice if the scheduled time for auditing / service provision by TÜV could not be availed of by the client and thus the certificate is to be withdrawn (for example when carrying out surveillance audits). Section 3.4 shall apply mutatis mutandis.
- 3.6. Notice of Termination must be in writing.

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<sup>1</sup> Please insert applicable TÜV Rheinland legal entity.

<sup>2</sup> Please insert date of publication.