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## 1. Scope of Application

The Testing and Certification Regulations govern all services rendered by TRUK to third parties. These services include in particular:

- The testing and assessments of products, components, technical product designs in their different stages of development, preparation of technical reports and expert opinions. Services are provided with regard to aspects such as safety, usability, quality and environmental compatibility on the basis of legal regulations, national, European and international standards, TÜV Rheinland testing principles as well as specifications agreed upon with the client. Furthermore, manufacturing facilities are appraised and inspected with regard to quality measures in connection with the award of TRUK test marks, with conformity assessments in line with EC Directives or regulations and in connection with approved quality management/quality assurance systems. These services are hereinafter referred to as "testing".
- Quality management (QM) and quality assurance (QA) audits, preparation of audit reports, hereinafter referred to as "auditing of QM systems".
- Inspection services and supporting functions.
- The evaluation and recognition of test and audit reports, review of technical documentation, certification of products, QM and QA systems, and personnel. Hereinafter referred to as "certifications".

## 2. Contractual Basis

(1) The ordering party, hereinafter referred to as "client", places an order with TRUK or with a subsidiary of TÜV Rheinland AG operating in the field of work of TRUK, hereinafter referred to as "subsidiary". In both cases, the order may be for testing or for auditing of a QM system without certification or with subsequent certification, or it may be for certification alone. If the order includes a certification, a "General Agreement" must be concluded between TRUK and the client.

(2) With each order a client places with TRUK, the client accepts as an essential element of the contract the version of the General Terms and Conditions of TRUK as binding that is the current version at the time of placing the order. Furthermore, when placing an order for testing, the client accepts the Testing Regulations (article 3) as binding; when placing an order for certification only, the client accepts the Certification Regulations (article 4), and when placing a testing and certification order, the client accepts the version of the Testing and Certification Regulations of TRUK as binding that is the current version at the time of placing the order.

(3) The Testing and Certification Regulations and the General Terms and Conditions of TRUK do not apply to orders for testing or auditing placed by the client with a subsidiary with the intention to obtain testing and/or a certification at the local level or on behalf of the local certification body. In such case, the terms of contract of the subsidiary shall apply.

(4) The services owed under the contract and under this PZO are conclusively agreed upon in the contract with the client. Third parties may not derive any rights to services, claims or intellectual property rights from the contract and shall have no claims in the event of breaches of contract by one of the parties.

## 3. Testing Regulations

### 3.1 Site of Testing

(1) Tests are generally carried out in the laboratories of TRUK. In consultation with the client, other test sites may also be agreed upon if these test sites provide adequate competence and proficiency for carrying out the tests and if an assessment by TRUK or by the subsidiary has furnished evidence of such competence and proficiency and if it is in line with the certification procedure to be applied. The decision about the test site lies with TRUK or the subsidiary. The decision on the test site does not affect the contractual place of fulfilment within the meaning of article 4 of this PZO.

In consultation with the client, the tests may also be conducted in the client's own laboratories if an assessment by TRUK or by the subsidiary has furnished evidence of their competence and proficiency.

Consent, which has been given to the performing of tests in external laboratories may be withdrawn by TRUK or the subsidiary, in particular if the fulfilment of the requirements of BS EN ISO/IEC 17025 can no longer be ensured or if complaints by TRUK or the subsidiary concerning the test laboratory are not rectified.

(2) If employees of the client participate in the performance of the tests, these employees may only participate in the presence and under the supervision of an expert from TRUK or the subsidiary. In this case the client shall hold TUV or the subsidiary harmless against all costs, losses and expenses in such an event.

### 3.2 Test Procedure

(1) After placing the order, the client shall supply TRUK or the commissioned subsidiary with the amount of test samples needed, free of charge. In addition, for a product certification or QM/QA certification, the client must submit the complete technical documentation required for the evaluation (such as constructional data form, risk analysis, operating instructions, certificates on related safety relevant components used or other technical documentation). If necessary, TRUK or the subsidiary may request several test samples free of charge. A one-time product evaluation of the supplied sample(s) will be conducted. Inspection orders are accepted without making any guarantee as to the outcome of the tests.

(2) As a rule, technical documents (e.g. technical documentation) to be submitted to TRUK must be in English.

For certification programs where TRUK conducts conformity assessment procedures as an Approved Body based on UK regulations, generally, all documents required for conducting the assessment procedure (e.g. technical documentation) must be submitted in English.

(3) Test samples are tested on the basis of statutory provisions and regulations, TÜV Rheinland testing principles and any requirements agreed upon with the client. No statement can be made about the properties of the overall test sample if only individual components or individual aspects of the whole test sample are tested. If no norms, standards or statutory provisions exist on the nature and scope of testing, TRUK or the subsidiary together with the client, or TRUK in collaboration with the subsidiary and the client shall decide on a test program. The decision rule for statements of conformity will be taken in accordance with ISO Guide 115 / ILAC G8 as appropriate, provided that nothing else is specified in the standards or contractually agreed and documented in the test report.

(4) The client shall cover any additional expenses incurred by submitting incomplete test documentation, or by re-testing and delayed testing due to delayed, incorrect or incomplete information or improper assistance by the client.

TRUK or the subsidiary shall only be liable for damages to or the loss of test samples that are the result of burglary, theft, water, fire or transport if they act with gross negligence. TRUK or the subsidiary shall not be liable for the damage or destruction of test samples or outer packaging as a result of testing activities.

(5) For QM/QA audits, the QM documentation and, if applicable, any technical documentation of products that are covered by the certification, must be provided in advance. As a rule, technical documents (e.g. technical documentation) to be submitted to TRUK shall be in English. To test the QM/QA system for its effectiveness, audits on the client's premises are conducted either at once or in several steps. If documents and documentations are submitted demonstrably incomplete or too late, TUV has the sole unfettered

discretion to decide when such documentation is submitted late, and on whether to cancel the order, the reimbursement of such additional cost and expenses as a result of such cancellation is payable by the client upon the demand of TUV.

(6) If a product submitted for testing by a client turns out indisputably and verifiably to be a result of plagiarism, TRUK reserves the right to stop testing and to bill any incurred expenses. The fact that a product is a plagiarism can be proven solely by submission of a legally binding final judgment that does not allow for appeal. Under such circumstances Item 7 (2) of these Testing and Certification Regulations applies.

(7) The orders for testing are processed on the assumption of the submission in full of all necessary documents and test samples. This applies both to product tests and to audits of QM/QA systems.

(8) Upon completion of the test procedure, the client shall receive written notification or, by special request, a full test report listing the non-conformities, if any. There will however not be any suggestions for possible solutions.

(9) The client may disseminate test reports etc. only in complete and unabridged form. In each individual case, a publication or reproduction for advertising purposes or any further use of the test results beyond the scope regulated in section 9 para 2 requires the prior written permission of TRUK or the subsidiary (see IEC/ISO 17025 section 5.10.2). For the avoidance of doubt, it is stated that the clients is responsible for any publication or duplication of the test results for promotion purposes.

(10) If the client wishes the product testing to result in a test mark approval and if the course of the test indicates a positive result, TRUK or the subsidiary shall perform, in co-ordination with the client, an inspection of the factory where the products are produced during which the manufacturing process, assembly and test facilities, and quality measures are inspected that are required to continuously meet a quality level consistent with the one of the type initially evaluated. Testing based on applicable regulations or the specifications of the TRUK certification body involves a receiving inspection and testing, production control, in-process inspection and testing, and final inspection and testing.

Product certification will not take place if the request for an initial factory inspection is declined.

(11) If the client desires a certification following successful testing of his product or successful completion of the audit of the QM/QA system, the technical documentation and, if necessary, also the report on the initial factory inspection will be submitted to the Certification Body for certification.

(12) TRUK or the subsidiary expressly reserves the right to publish, e.g. in the form of reference lists, the trading names of clients which operate businesses. A special consent by the client is not required.

(13) Test reports issued for the client must not be altered by the client. A test report only applies to the product sample mentioned in the test report. Without permission by TRUK or the subsidiary a test report may not be published or duplicated in part. A test report does not authorize the use of a TUV test mark (visit:

<https://www.tuv.com/world/en/certipedia.html> for more information)

### 3.3 Retention of Test Samples and Documentation

(1) The test samples submitted by the client to TRUK for testing will be scrapped following testing or will be returned to the client at the client's expense. The only exceptions are test samples, which are placed in storage on the basis of statutory regulations or of another agreement with the client.

(2) Charges apply if the test samples are stored at the premises of TRUK. The cost of placing a test sample into storage will be disclosed to the client in the quotation.

(3) If reference samples or documentations are given to the client to be placed in storage at their premises, the reference samples or documentations must be made available to TRUK or the subsidiary upon request promptly and free of charge. If the client, in response to such a request, is incapable of making available the reference samples and/or documentation, any liability claims for material and pecuniary damage resulting from the respective testing and certification that is brought forward by the client against TRUK or the subsidiary shall be voided.

(4) The retention period for the documentation shall be 10 (ten) years after the expiry of the test mark certificates or shall meet the applicable legal requirements for UK certificates of conformity and GS mark certificates (to be retained by TRUK).

(5) The costs of the handover and dispatch of the test samples for storage on the client's premises are borne by the client. TRUK or the subsidiary will be liable for the loss of test samples or reference

samples from the laboratories or warehouses of TRUK or the subsidiary only in case of gross negligence.

## 4. Certification Regulations

### 4.1 Basic Requirements

(1) The only test reports on which assessments that are part of the certification may be based on are those prepared by laboratories that have been accredited according to the rules of EN ISO/IEC 17025 or that have furnished evidence that they operate according to these. Some individual certification programs may require an approval of the testing laboratories by authorities.

(2) The Certification Body of TRUK preferentially carries out assessments and certifications on the basis of the reports of TRUK or the subsidiary. In addition, reports of other bodies can also be used for assessments as part of the certification once verified by TRUK, if allowed by the relevant management system standard. Where required, a test sample must be submitted for verification. As a general rule, reports which are to serve as a basis of certification may not be older than one year at the time of the certification (some certification schemes may have more specific requirements);

(3) In order to issue a certificate to a client, the client must conclude a General Agreement with TRUK. If the client does not intend to market a product to be certified under their own name, the clients must document the mark of origin under which he intends to place the product on the market through a "marks declaration".

If the client applies for an UK conformity assessment (UKCA) certification, the client must declare to TRUK that they have not submitted the same application to another UKCA approved body.

(4) Place of Fulfilment for all TRUK obligations relating to the certification that arise from the contract shall be Solihull, Birmingham unless otherwise agreed upon in writing.

(5) Permission to use the certificate applies only to the certificate holder and only with respect to the product and the manufacturing facilities stated in the certificate (where applicable) and the scope covered by the certified QM/QA system. Product certificates may be limited to certain quota or lots.

(6) To participate in the certification system, the general conditions of use for the use of test marks must be recognized as a prerequisite. The conditions of use are provided to the client together with the Testing and Certification Regulations and the General Agreement, and thus become an integral part of the contract.

(7) Fees shall be paid by the certificate holder for the participation in the certification system and for the issue of certificates. In addition where applicable, license fees, either staggered by units or based on a flat fee, shall be paid annually for maintaining and archiving the certificates and for the use of test marks. The Certification Body of TRUK may demand prepayment of both the certification fee and the license fees prior to certification.

(8) The completion of an assessment with a final evaluation or with a certificate shall not release the client from his contractually-agreed-upon warranty obligation with regard to defects or their statutory product liability obligation or the assessment and surveillance of predictable misuse.

TUV does not warrant or represent that any certificate (or other testing service provided) guarantees that the client's products shall be fault or defect free, and that the client warrants and agrees that it remains responsible for any warranties it provides for its products.

(9) The Certification Body of TRUK reserves the right to release a list of certifications for informational purposes to Accreditation Bodies, competent authorities, and UKCA approved bodies in the UK or EU Notified Bodies of the contracting states to the Agreement on the European Economic Area, the EU Commission, consumers and other interested parties. It will do so in particular in its capacity as UK approved body. Consent by the certificate holder is not required in any event. Furthermore, the Certification Body of TRUK may share upon request with third parties or make available to any person the contents of a certificate issued except for particulars about the manufacturing facility at [www.certipedia.com](http://www.certipedia.com).

(11) TRUK publishes information regarding the misuse of test marks and certificates issued by TRUK under the section "black list" at [www.tuv.com](http://www.tuv.com).

TUV reserves the right in its sole unfettered discretion to publish such information, and that such information shall not constitute a breach of any confidentiality obligations under the contract.

(12) Particularly in case of modifications to the test specifications and/or the prerequisites of certification or in case of violations against the rules of the certification system by the client, the Certification Body shall have the right to terminate the certificates at any time. In serious cases it may declare the certificates invalid with immediate effect. This also applies to UKCA certificates of conformity and

recognition or approvals of QM/QA systems. The Certification Body reserves the right to publish certificates it has declared invalid or withdrawn. The consent of the previous certificate holder is not required.

(13) If changes are made to the test specifications and/or certification requirements, it may be possible/ necessary to carry out a retesting following consultation with the client even if the certification is still valid. If the client declines the retesting, the certificate will be cancelled. The testing requirements may also be changed when the test is already underway. The product must then be tested and evaluated in accordance with the new testing requirements. No test mark will be issued on the basis of the previous testing requirements.

(14) If a certificate is about to expire neither TRUK nor its subsidiary is obligated to prepare a new quotation for the renewal or extension of the expiring certificate.

(15) Certificates issued for the client must not be altered by the client in any way. The client may not issue sub-licenses for his certificates or test mark approvals to any third parties.

#### 4.2 Types of Certificates

(1) On the basis of the favourable assessment and evaluation of test and audit reports, the Certification Body issues the following certificates:

- Test mark award for private test marks of TRUK
- Product certificates (including type examination) according to United Kingdom legislation/ Regulations as an Approved Body
- UK design examination certificates according to United Kingdom regulations/ Legislation as an Approved Body
- QM/QA system certificates in areas not regulated by law
- Approval of personnel certificates according to United Kingdom legislation/ Regulations as an Approved Body
- Approval of procedure certificates according to United Kingdom legislation/ Regulations as an Approved Body
- Certificates of conformity according to United Kingdom legislation (module A of the conformity assessment procedure) with respect to standards or certain regulations.

(2) Conformity certificates alone do not authorize the use of a test mark of TRUK. If test marks of TRUK are to be used, they must always be combined with a separate test mark approval. Any advertising using certificates of conformity requires the express written agreement of the Certification Body. See also Item 7 (2) of these Testing and Certification Regulations.

(3) A test mark or a certificate that has been granted does not allow a conclusion about the marketability of the tested and certified product.

(4) The test mark may only be displayed as shown on the certificate and if the size is changed, the proportions must remain the same.

(5) Certificates for QM/QA systems are issued only if the audits have been completed successfully. If the applicable legislation require type examination certificates or design examination certificates as a precondition for the award of the QM/QA system certificates, those must be submitted for the certification process.

(6) Certificates for QM systems provide evidence of

- conformity to standards e.g. ISO 9001, ISO 13485,
- successfully conducted conformity assessments through a UK Approved body.
- the scopes of application of products/product categories.

#### 4.3 Client Rights arising from Certifications

(1) For the duration of the validity of the issued test mark approvals and/or existing QM system certifications, the client has the right  
(a) to affix test marks on his certified products following successful testing and certification and once they have been approved for use,

(b) to use the approved test marks for product-related advertising in printed matters or similar items,

(c) to use test mark licenses and QM system certificates in advertising campaigns without altering such licenses and certificates,

(d) to use marks related to the certification of the QM system in brochures, business letters and printed matters. However, in this case the client is not permitted to attach these marks to his products. In this context, reports such as laboratory test reports, calibration certificates, and inspection reports shall also be counted as products (see ISO/IEC 17021).

(e) to use type examination certificates (module B) and certificates of conformity (module F or G) within the scope of the conformity assessment procedure,

(f) to use the TRUK's UK "Approved Body" identification number for UKCA marking provided the QM/QA system for the production has been approved according to the requirements of the legislation or regulations,

(g) to apply for co-certificates for his products if those shall be placed on the market under another mark of origin or trade name and also possibly with another type designation.

The advertising activities mentioned under letters (a) through (g) are not intended to guarantee the contractual fulfilment by TRUK or the subsidiary vis-à-vis the business partners of the client or to justify trust with third parties in this regard. They do not contain any assurance by TRUK or the subsidiary of the properties regarding the products actually placed on the market.

(2) Additional advertising by the client which refers to the activities of TRUK or the subsidiary needs to be agreed to by TRUK or the subsidiary. Any further use of certification results beyond the scope regulated in section 4.3 para 1 a) – g) and 9 para 2 requires the prior written consent of TRUK or the subsidiary in each individual case. This applies in particular to advertising referring to the testing or certification services of TRUK or the subsidiary which the client has obtained without any legal obligation and without request by the authorities, i.e. on a voluntary basis. The client shall be solely responsible for designing his advertisements, publication and reproduction of its certification results for advertising purposes, and hereby waives all claims for compensation and repayment of expenses towards TRUK or a subsidiary of TRUK, if he uses a TRUK test mark for advertising purposes. The client shall indemnify TRUK and the subsidiary against any claims made by third parties. TRUK and subsidiary may revoke a once given approval according to section 4.3 para 2 sent.1 at any time without stating reasons. In this case, the client is obliged to stop the transfer of the certification results immediately at his own expense and, as far as possible, to withdraw publications.

(3) The client is not authorized to issue sub-licenses that are based on the licenses or test mark approvals issued by TRUK or one of its subsidiaries.

#### 4.4 Client Obligations arising from Certifications

For the duration of the validity of the issued test mark approvals and/or existing QM system certifications, the client has the obligation (a) to continuously monitor the manufacturing of the certified products to ensure consistency with the approved types.

(b) to ensure that production or products can be inspected at regular intervals by TRUK or the subsidiary as part of certificates issued.

c) to ensure that within the scope of the certified QM/QA system surveillance audits can be conducted within 12 months after the initial certification and at least annually (within a period of +/- 3 months from the surveillance date specified by the certification authority and communicated to the certificate holder) by TRUK or the subsidiary. Failure to comply with the surveillance periods may result in a withdrawal of the certificate.

(d) to conduct product development and run the production in strict compliance with the approved QM/QA system.

(e) to take into account the findings of the recurrent production or product inspections and of surveillance audits conducted by TRUK or the subsidiary.

(f) to notify the Certification Body beforehand of any changes the client intends to make to the product, whether through further development of the product or through the replacement of components or materials, the change of the intended use or the change of performance characteristics; and to obtain the approval of the Certification Body. The continued validity of the issued certificate depends on the results of an additional test that may have to be carried out.

(g) to notify the Certification Body of any intended changes in the QM/QA system (the Certification Body shall evaluate the intended changes to ensure that they continue to satisfy the requirements and inform the client of the result). If the Certification Body is not informed about these changes and/or if the relevant proof of the changes is not submitted promptly, all affected certificates may be withdrawn by the Certification Body.

(h) to record and archive all complaints from the market or third parties about the product. At the request of the Certification Body the client must make these details available and provide information on the remedial measures taken.

(i) to notify the Certification Body promptly about any intended relocations of inspected manufacturing facilities or about any intended transfer of its firm to another firm or another firm owner. If changes are made to the company name or legal form, a new General Agreement must be signed and certificates shall be rewritten to reflect the changes at the client's expense. If the address changed within the same country, signing of a new General Agreement is not necessary and the certificates shall be rewritten at the client's expense.

(k) if the client as the certificate holder is not the manufacturer of the product, to reach a contractual agreement with the manufacturer of the product about fulfilling the requirements essential for manufacturing the product including the acceptance of any required control measures.

(l) to rectify immediately any safety deficiencies which appear in products that bear a UKCA marking or a test mark of TRUK on the basis of a type examination certificate and to take suitable measures for minimizing the damage in the market. The client must in any case stop immediately the marketing of the defective products and notify the Certification Body.

(m) a certification notwithstanding, to meet his reporting obligations to the authorities as manufacturer or as party placing the product on the market either by himself or through his authorized representative.

(n) to permit witness audits on the client's manufacturing premises and those of his subcontractors by the Accreditation Body and/or competent authority of TRUK, under involvement of representatives of other authorities, when indicated. The client shall commit his subcontractors to that effect.

(o) if changes were made to a certified product, to define a new type designation for that modified product if it is also to be certified.

(p) to accept that TRUK has the right by virtue of reporting obligations imposed by law or by authorities, to pass on information about the certification which has come to its knowledge. At the request of the Accreditation Body and/ or competent authorities, information, documentation etc. concerning both the contract with the client and the subject of the contract may be passed on to those authorities. This includes, in particular, information about the performance of audits, the granting and withdrawal of licenses, attestations, certificates, etc. and incidents and measures to protect against risks, which are indirectly or directly related to the tested products and/or QM/QA systems. TRUK reserves the right to debit to the client's account any costs incurred for identifying and clarifying such incidents.

#### **4.5 Restriction, Suspension, Expiration and Declaration of Invalidity of Certificates or Licenses and of the General Agreement**

Definition of terms:

- **Restriction:** Restriction of the original scope of the certificate/license
- **Suspension:** Invalidity of the certificate/license for a certain period of time not longer than twelve (12) months maximum

(1) Certificates shall expire if

(a) The validity period stated on the certificate has expired.  
(b) The holder of the certificate or TRUK terminates the "General Agreement" or if the holder of the certificate waives certificates or licenses and informs the Certification Body in writing thereof in compliance with the period of notice specified.

(c) The holder of the certificate becomes insolvent or if a request for the opening of insolvency proceedings filed against him is dismissed for lack of assets.

(d) The Certification Body terminates the certificate by virtue of changes to the accreditation or other regulations and/or the test specifications or of changes in the use of the product with a maximum notice period of three (3) months.

(2) Certificates may be restricted, suspended, or declared invalid and revoked by the Certification Body at any time with immediate effect if  
(a) The product put into circulation no longer corresponds to the approved type and/or end users or third parties are exposed to risks.  
(b) End users or third parties are exposed to risks resulting from products manufactured under an approved QM/QA system.

(c) At the time of the test or audit facts were either not seen or were seen/evaluated incorrectly or were not evident, and if this would have precluded certification. This includes e.g. the wrong categorization of products in certain risk classes or the wrong classification by category of use.

(d) Defects or deficiencies in the product or system which come to light later or are not noted during periodic inspection or checks of products already on the market or on other occasions are not rectified by the holder of the certificate within a reasonable period.

(e) The holder of the certificate cannot ensure that his products are manufactured in a way that is consistent with the tested and/or certified product.

(f) Accreditations or designations have expired or been cancelled.

(g) The holder of the certificate does not have the periodic inspections carried out according to the procedures specified, in the accreditation regulations, the UK legislation or the Testing and Certification Regulations of TRUK or if he holds up or restricts the proper execution of the periodic inspections.

(h) Certificates or copies of certificates have been changed and thus been forged.

(i) The holder of the certificate uses existing test mark licenses or UKCA markings also for non-approved products or products that are not covered by the QM system. This constitutes misuse of the mark and precludes any collaboration in a spirit of trust.

(j) Test reports, certificates or test marks are used for any misleading or otherwise not permissible advertising.

(k) If it is discovered that the certified product is indisputably or verifiably a plagiarism.

(l) The holder of the certificate fails to pay fees for certifications, licenses and/or tests carried out beforehand that are due by the stipulated deadline following a reminder. If the fees refer to several certificates, the Certification Body decides which certificates the measure shall cover.

3) The Certification Body has the right to terminate the General Agreement concluded with the holder of the certificate without notice if certificates, copies of certificates, test reports or copies of test reports are altered or falsified.

(4) Before declaring a certificate restricted, suspended or invalid, the Certification Body shall give the client the opportunity to state its views, unless such a hearing is impossible owing to the urgency of the measures to be taken. No hearing will take place if the reason for the declaration of invalidity is the expiry or cancellation of the accreditation.

(5) The holder of the certificate automatically forfeits the right to continue to label the products listed on the certificate with test marks of TRUK or, for UKCA marking, to use the Approved Body ID number for products which are affected by the restriction or suspension or which have expired by notice of termination on a particular date or have been declared invalid at short notice. Upon request by the TRUK Certification Body, the former certificate holder returns the invalid original certificate to the Certification Body.

(6) The Certification Body must publicize restrictions, suspensions, declarations of invalidity and withdrawals and the expiry of product and QM/QA system certificates. Upon request, but in particular in case of violations, the Certification Body must disclose to the competent authority, regulatory agencies, Accreditation Bodies, other "Authorized Bodies" and "UKCA approved Bodies", and to the licensing authorities the name and address of the client, the nature of the violation or the reason why the certificate has been declared invalid, including, where appropriate, information about the product etc. This also applies if the certification is withdrawn on the basis that the product is a plagiarized product.

See Item 4.1 (8) for information about the validity of certificates.

(7) The Certification Body shall not be liable for any damage the client may incur as a result of the non-granting, the restriction, suspension, termination or the declaring invalid and revocation of a certificate, nor for the publication of the aforementioned measures (see section 4.5 (5)).

#### **4.6 License fees**

A license fee is payable for the permission to use the test marks of TRUK, approved QM/QA systems and certificates of conformity in combination with our Approved Body ID number. For this fee, certificate holders will also be kept informed of amendments to test standards and regulations that affect their certified product or their QM/QA system. The license fee amount is dependent on the type of certificate and shall be charged annually at the beginning of the calendar year.

License fees for test mark certificates and QA system certificates shall be charged for the first time once the certificate is awarded. License fees for test mark certificates and QA system certificates issued after February 1 shall be charged proportionally for the current year. License fees for QM system certificates shall be charged for the first time in the year following the award of the certificate.

Amendments or cancellations which are to be taken into account in the calculation of the license fees for the following calendar year must be received by TRUK by November 15 of the current year. If certificates are terminated in the course of the year, no proportional reimbursement of the license fees shall be made.

### **5. Periodic Inspections**

#### **5.1 Surveillance of Product Certifications**

(1) In order to ensure and maintain consistent product quality of the certified products, TRUK or the subsidiary shall carry out regular, generally annual, surveillances of the certified products. Within the framework of the regulatory requirements, the main surveillance method are inspections of the production sites (factory inspections). Product controls or similar procedures may be used as an alternative.

Unless there are regulatory guidelines, TRUK decides about the procedure to be used.

If a certification program requires the surveillance of the QA/QM system, this surveillance is mandatory. At least one of the products covered by the certification must be presented during the factory inspection. If none of the products covered by the certification can be presented, TRUK decides, whether a different or an additional surveillance method must be applied.

(3) If non-conformities come to the attention of the Certification Body during the inspection or through product-related information from third parties or through other channels, the Certification Body may shorten the inspection intervals. Any associated additional costs will be charged to the client. In special cases, the Certification Body may order a product control test to be carried out prior to the initial shipment of the products.

(4) In addition, TRUK or the subsidiary may at any time inspect without advance notice the products, factories and storage facilities specified in the certificate (for foreign certificate holders this also includes the storage facilities of the importers or of the United Kingdom agents and the branch offices). For monitoring purposes, TRUK or the subsidiary may remove, free of charge, products for which a certificate has been granted and also carry out sample checks in factories and storage facilities.

(5) The TRUK or the subsidiary may commission other independent and qualified persons or authorities to carry out monitoring on their behalf.

## 5.2 Surveillance of QM/QA System Certifications

(1) To maintain the validity of certificates issued for QM/QA systems, clients are required to have surveillance audits conducted, usually every year. This involves spot checks on the effectiveness of the QM/QA system in the scopes of application specified. For an extension of a QM system certification beyond the end of its validity a request for extension and a recertification audit are required. TRUK or the subsidiary have the right to conduct audits on short notice or unannounced at any time at the premises of the certified client, manufacturer or their subcontractors/suppliers in accordance with the applicable legislation and regulations, to perform product tests as part of the audit or to have product tests performed, and to draw product samples. It is the obligation of the holder of the certificate to provide access to his production facilities or to those of his supplier(s) at any time and to ensure that product tests can be performed and product samples can be withdrawn.

The costs for unannounced audits, the withdrawal of samples and testing of the samples shall be charged to the certificate holder.

(2) In order to minimize the effects of unforeseen circumstances beyond the control of the client or of TRUK or the subsidiary on the client's certification procedures, e.g. epidemics or pandemics, surveillance audits may exceptionally be carried out as remote audits in accordance with the methodology defined in document IAF MD4:2018 of the International Accreditation Forum (IAF). For this purpose, the customer shall provide a suitable platform, in a format compatible with the software and technology in use on the market, to enable the remote audit to be carried out. The customer shall also ensure that sufficient personnel are made available to ensure that the remote audit is carried out.

TRUK reserves the right to conduct an additional on-site audit or an additional product test. It is at the sole discretion of TRUK to decide whether an additional on-site audit is necessary in addition to the remote audit.

## 5.3 Costs of Inspections/audits

(1) The costs of carrying out inspections, and for surveillance and repeat audits of the QM/QA systems shall be invoiced to the certificate holders.

(2) The costs for the coordination of inspections and surveillance audits are invoiced annually together with the license fee.

(3) Costs for regularly scheduled factory inspections or for scheduled alternative procedures are billed at the price quoted in the respective quotations.

(4) Additional surveillance methods, such as retesting, that may become necessary based on the detection of non-conformities during the factory inspection or other, additionally required monitoring procedures, see chapter 5.1 (1) and 5.2, will be invoiced at cost incurred and are specified by TRUK or the subsidiary.

If the client cancels a scheduled and agreed-upon inspection/audit appointment at short notice (within 1-5 days of the scheduled appointment), the applicable fixed price or a lump sum of costs that have already been incurred will be invoiced.

## 6. Market Control

(1) The Certification Body may remove from the market at any time, for check tests, products that carry a TRUK test mark or a UKCA marking using the Approved Body ID number of TRUK.

(2) If deviations with respect to the certified types or defects in products manufactured within the scope of a certified QM/QA system are found during check tests, the certificate holder will receive a written report on the outcome of the check test and will be asked to rectify the defects.

(3) The Certification Body may carry out further activities to verify the validity of issued certificates or their scope (e.g. verification of the validity of the certificate in case of incidents that have occurred with the product or field corrective measures initiated by the certificate holder).

(4) The certificate holder has to bear the whole of the costs of the monitoring measures.

## 7. Violations of the Testing and Certification Regulations

(1) In the event of culpable violations of the Testing and Certification Regulations by the client, the client indemnifies TUV against all costs and losses arising from their failure to abide by their obligations under the Regulations as a whole.

This applies in particular

- in cases of unlawful use of test marks or
- for inadmissible advertising using test marks or certificates of conformity of TRUK.

(2) Furthermore, TUV are entitled to seek equitable remedies against the client in the event of such a breach for each infringement by the certificate holder. (see clause 3.2. (6)).

(3) In addition, the Certification Body reserves the right to terminate the General Agreement with immediate effect and to declare any additional, existing certificates of the client invalid after TRUK has confirmed that it no longer has any confidence in the contract compliance and the reliability of the client because of the client's violation against the Testing and Certification Regulations.

A product certification is not possible if it is verified that the product submitted for testing and certification is a plagiarism.

(4) If the client does not comply with the requirements pursuant to Item 4.4, the Certification Body may take suitable measures of its own. These include, for example:

- informing the users in order to minimize the damage in the market, and
- notifying the regulatory agencies, accreditation bodies and the other "Approved Bodies".

(5) TRUK reserves the right to claim compensation from the client for expenses incurred by TRUK owing to the violation against the Testing and Certification Regulations by the client.

Such expenses are, for example, costs for:

- tests for comparing certified products with products taken from the market,
- necessary investigations,
- factory inspections, shipping inspections, checking of stocks and other measures TRUK deems necessary.

Costs incurred for these measures will be charged by TRUK according to time spent.

(6).

(7) Pursuant to clause 4.1 (9), TRUK will publish any misused TÜV Rheinland test marks and certificates at [www.tuv.com](http://www.tuv.com).

## 8. Appeals and Complaints

(1) An appeal is the request by the client brought against TRUK for a review of TRUK test, audit and certification decisions.

A complaint is the expression of dissatisfaction of the client relating to the activities of TRUK.

(2) Appeals and complaints may be lodged in writing with the Board of Management of TRUK against test results, audit results or certification decisions.

(3) In case of appeals, TRUK will provide a written statement of their reasons. If these reasons are not acceptable to the client and no final decision can be reached with the Board of Management of TRUK, the client who lodged the appeal may take legal action.

(4) In case of complaints, TRUK will answer the person who lodged a complaint in compliance with TRUK procedures.

(5) Additional information and explanations about the complaints and appeals procedure can be requested from [feedback@uk.tuv.com](mailto:feedback@uk.tuv.com)

## **9. Copyrights and rights of use, publication**

(1) The copyrights of the reports, test reports, test results, expert opinions, results, calculations, representations, etc. prepared within the scope of the order (hereafter "performance results") are owned by TRUK. As the owner of the copyrights, it is free to grant others the right to use the performance results for individual or all types of use ("right of use").

(2) The client receives a simple, unlimited, non-transferable, non-sublicensable right of use to the contents of the performance results produced within the scope of the order, unless otherwise contractually agreed in individual cases. The right of use is limited to the contractual purpose (e.g. use of test reports, audit reports as proof of audits carried out or in the case of a contractually agreed review of a management system for conformity with certification conditions as proof of the corresponding decision).

(3) The transfer of rights of use of the generated performance results regulated in Section 9 para.2. is subject to full payment of the remuneration agreed in favour of TRUK.

The consent of TRUK to publish does not entitle the client to use the corporate logo of TRUK's parent company, TÜV Rheinland AG, also registered as a Union trademark (reg.-No.: 005871116) or the corporate design of TÜV Rheinland AG as reference advertising.

## **10. Damages and Reimbursement of Expenses**

(1) TRUK is not liable for damages or reimbursement of expenses - in particular due to defects, breach of duties arising from the contractual relationship or tort. This applies in particular, but not exclusively, to claims for damages due to lost sales or profits, financing costs as well as damages as a result of business interruption or loss of production.

(2) This exclusion of liability according to section 10 para 1 does not apply in the case of a) intent or gross negligence, b) liability for guaranteed quality characteristics, c) liability on the basis of the Product Liability Act and d) culpable injury to life, body or health. In addition, TRUK is also liable in accordance with legal provisions in the event of a breach of essential contractual obligations, i.e. obligations whose fulfilment is essential for the proper execution of the contract and on whose observance the client regularly relies and may rely.

(3) Insofar as TRUK is not liable for intent or gross negligence, injury to life, body or health, for guaranteed quality characteristics, TRUK's liability in the event of a breach of essential contractual obligations is limited to the foreseeable damage typical for the contract.

(4) Insofar as liability under this section 10 is excluded or limited, this shall also apply to the personal liability of the employees, representatives, organs and other employees of TRUK and its assistant and vicarious agents.

(5) The limitation period for claims for damages and reimbursement of expenses shall be governed by legal provisions.

(6) No change in the burden of proof to the detriment of the client shall be construed with the above-mentioned provisions.

(7) Unless otherwise contractually agreed in writing, TRUK shall only be liable under the contract to the client and, if applicable, to a third party explicitly named in writing in the contract. Liability towards other third parties is excluded with the exception of liability in tort.

## **11. Confidentiality**

(1) "Confidential Information" means all information, documents, pictures, drawings, know-how, data, samples and project documents handed over by one party ("Disclosing Party") to the other party ("Receiving Party") or otherwise disclosed from the beginning of the contract. This also includes copies of this information in paper and electronic form.

Confidential information is expressly not the data and know-how collected, compiled or otherwise obtained by TRUK (non-personal) within the scope of the provision of services by TRUK. TRUK is entitled to store, use, further develop and pass on the data obtained in connection with the provision of services for the purposes of developing new services, improving services and analysing the provision of services.

(2) Confidential Information

a) May only be used by the receiving party to fulfil the purpose of the contract, unless otherwise expressly agreed in writing with the disclosing party,

b) May not be duplicated, distributed, published or passed on in any other form by the receiving party, with the exception of such Confidential Information necessary to fulfil the purpose of the

contract or such Confidential Information which the receiving party must pass on the basis of judicial instructions or legal or governmental regulations; this concerns in particular the Confidential Information to be passed on to supervisory authorities and/or accreditors of TRUK within the framework of an accreditation procedure.

(c) Must be treated confidential by the receiving party in the same way as it treats its own confidential information, but in no case less carefully than with requisite care and attention.

(3) The Receiving Party shall make the Confidential Information received from the Disclosing Party available only to those persons who need it to provide services under this Agreement. These persons include advisors to the receiving party, in particular lawyers and auditors.

(4) The receiving Party shall be entitled to disclose confidential information to its subcontractors and its affiliated companies necessary to fulfil the purpose of the contract.

(5) Such information is excluded from the confidentiality obligation,

a) The information was already generally known at the time of publication or becomes known to the general public without a violation of this agreement, or

(b) Which were demonstrably known to the receiving party at the time of conclusion of the contract or are thereafter disclosed in a justified manner by a third party; or

(c) The information was already in the possession of the receiving party prior to transmission by the disclosing party; or

(d) The receiving party has independently developed the information irrespective of the transmission by the disclosing party.

(6) Confidential information remains the property of the respective disclosing party. The Receiving Party hereby agrees to immediately

(i) Return all Confidential Information, including all copies thereof, to the Disclosing Party at any time upon the request of the Disclosing Party, or to (ii) destroy the Confidential Information, including all copies thereof, upon the request of the Disclosing Party, and to confirm in writing to the Disclosing Party the fact of such destruction.

The above-mentioned obligation to return or destroy does not apply

(a) For the reports and certificates drawn up exclusively for the purpose of fulfilling the contractual obligations under the contract for the client, which remain with the client. However, TÜV is entitled to take copies of this and the Confidential Information, which form the basis for the preparation of these reports and certificates, as proof of proper performance of the contract and for general documentation purposes for its files;

b) For confidential information that is stored on backup servers or in analogue backup systems on a generational basis during routine data backups as part of normal archiving processes;

c) To the extent contrary to laws, regulations, orders of a competent court or an administrative or supervisory authority or an accreditation body.

(7) This confidentiality obligation exists from the beginning of the contract and continues to apply for a period of five years after termination of the contract. By way of derogation from the first sentence of paragraph 7 above, the confidentiality obligation for confidential information relating to UKCA certificates shall not end until the retention period specified in the relevant legal provisions has expired. If no retention period is specified, the duration of the confidentiality obligation specified in paragraph 7 sentence 1 shall apply.

## **12. Data protection notice**

TRUK processes personal data of the contractual partner for the purpose of fulfilling this contract. In addition, TRUK also processes the data for other legal purposes in accordance with the relevant legal basis (e.g. balancing of interests / consent). The personal data of the contractual partner will only be disclosed to other natural or legal persons if the legal requirements are met. This also applies to transfers to third countries. The personal data will be deleted immediately as soon as a corresponding reason for deletion arises. Data subjects may exercise the following rights: right of information, right of rectification, right of deletion, right of processing limitation, right of objection, right of data transferability. In addition, persons concerned by the data processing have the right to revoke their consent at any time with effect for the future, as well as the right to file a complaint with the competent data protection supervisory authority. For further details on the processing of personal data by TRUK as the person responsible or contract processor, please refer to the respective data protection information. You can contact the TRUK Data Protection Officer by e-mail at lee.willison@uk.tuv.com or by post at the following address:

### 13. Force Majeure

(1) Force majeure means the occurrence of an event or circumstance, which prevents either party from performing one or more of its obligations under the Contract. Force majeure in this sense shall be deemed to exist if and insofar as the party claiming force majeure proves (a) that such obstacle to the performance of the contract is beyond its reasonable control; and (b) that it could not reasonably have been foreseen at the time the contract was concluded; and (c) that the effects of the obstacle could not reasonably have been avoided or overcome by the party concerned.

(2) Unless proved otherwise, the following events affecting a party shall be presumed to meet conditions (a) and (b) in paragraph 1 of this clause: (i) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation; (ii) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy; (iii) currency and trade restrictions, embargo, sanctions; (iv) lawful or unlawful official act, compliance with laws or governmental orders, expropriation, confiscation of works, requisition, nationalization; (v) plague, epidemics, pandemics, natural disasters or extreme natural events; (vi) explosion, fire, destruction of equipment, prolonged loss of transportation, telecommunications, information systems or energy; (vii) general labor disturbances such as boycotts, strikes and lockouts, slowdowns, occupation of factories and buildings.

(3) A party who successfully invokes this clause shall be released from its obligation to perform its obligations under the Contract and from any liability for damages or any other contractual remedy for breach of contract from the time when the impediment causes the inability to perform, provided that it is notified immediately. If such notification is not given without delay, the relief shall take effect from the time when the notification is received by the other party. If the effect of the alleged obstacle or event is temporary, the above consequences shall only apply as long as the alleged obstacle hinders the performance of the affected party. If the duration of the alleged impediment has the effect of substantially depriving the parties of what they could reasonably expect under the contract, either party shall be entitled to terminate the contract by giving notice

to the other party within a reasonable period of time. Unless otherwise agreed, the parties expressly agree that the contract may be terminated by either party if the duration of the impediment exceeds 120 days. A force majeure does not release the client from obligations to make payment for work already performed by TRUK under the contract.

(4) Other  
(1) Ancillary agreements to this contract do not exist.  
(2) All amendments and supplements must be submitted in writing and agreed by both parties in order to be effective; this also applies to amendments and supplements to the requirement for the written form.

(4) The place of jurisdiction for any disputes arising out of or in connection with this Agreement is governed by the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

(5) TRUK reserves the right to make changes to the Testing and Certification Regulations at any time. The client shall be informed about any changes to the Testing and Certification Regulations. The client has the right to terminate the contractual relations with TRUK in writing within one month after receiving the notifications of change.

(6) In the event that TRUK commissions a certification service and thus concludes the "General Contract" as required under section 2 (1) and 4.1 para 3 , the following order of validity shall apply with regard to the certification service in the event of conflicting regulations concerning the content of documents:

1. The Testing and Certification Regulations of TRUK
2. TRUK's General Terms and Conditions (if applicable)
3. General terms and conditions of the subsidiary (if applicable) not be affected.

(7) Should one of the aforementioned provisions be or become void or invalid, in its entirety or in part, the validity of the remaining provisions shall not be affected.

### 15. Taking Effect

The Testing and Certification Regulations are effective as of January 1, 2021.

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