

EUSACERT

GENERAL TERMS AND CONDITIONS OF BUSINESS

1. General Terms and Conditions

The services provided by EUSACERT and/or its affiliated companies (hereinafter “the Company”), directly or through their agents and/or subcontractors, are subject to the present General Terms and Conditions of Business (hereinafter “General Terms and Conditions”) unless overridden wholly or in part by (i) the imperative provisions of applicable law and regulations and/or (ii) express agreement of the Company in writing.

2. The Company

The Company is active in the areas of testing, inspection, certification and provision of customized technology services. As such, it provides the services listed in article 5 below and issues reports and/or certificates as indicated under article 6 below.

3. The Principal

The Company acts for legal entities or individuals from whom it receives a mandate (hereinafter “the Principal”).

4. Execution of services

- 4.1 The Company undertakes to perform its services according to
- i) the scope and methods of performance agreed with the Principal,
 - ii) the performance standards deemed appropriate by the Company in view of the specific services required.
- 4.2 The Company has the right, at its discretion, to delegate all or part of the execution of the services to any agent and/or subcontractor.
- 4.3 The Company provides its services within the framework of the Principal’s explicit mandate, as accepted by the Company. The Principal is expected to provide sufficient information, specifications and instructions to enable the Company to evaluate and/or carry out the services required. Documents reflecting undertakings entered into between the Principal and third parties or third party documents such as les contracts, letters of credit, and bills of lading, when provided to the Company, shall only be part of the mandate if expressly specified and acknowledged by the Company.

5. Services

The Company’s services can include any of the following:

- 5.1 Provide Certification for EMC (2014/30/EU)
- 5.2 Provide Certification for RED (2014/53/EU) directives.

6. Reports, certificates and results

- 6.1 Subject to the mandate agreed with the Principal, the Company will issue reports and certificates which reflect its findings. The Company does not have the obligation to refer to, give an opinion upon, or announce facts or circumstances which go beyond the scope of the mandate received.
- 6.2 The reports and certificates delivered by the Company only reflect its findings at the time and place of its intervention.
- 6.3 The scope of the certificates issued by the Company in the framework of a governmental program is limited by the conditions of the contract in force between the Company and a specific governmental agency or by the accreditation granted by the latter. Such certificates are established according to pre-determined inspection criteria provided at a point in time and cannot be considered as a guarantee of quality or quantity of the goods or fitness of the goods for any particular use.
- 6.4 Results contained in reports or certificates issued after tests and/or analysis of samples relate to those samples only, and subject to the foregoing, do not express any opinion as to the overall quality of goods from which the samples have been taken. If an opinion on the overall quality of the sampled consignment is required, a particular agreement must be concluded in advance with the Company for such purpose, and such opinion shall be limited by the sampling and testing methods used.

7. Obligations of the Principal

The Principal undertakes:

- 7.1 To provide the necessary instructions and precise information in a timely manner to enable the Company to deliver the services requested;
- 7.2 To provide the necessary access to buildings, warehouses, carriers of any kind, or any other place to enable the Company to deliver the requested services in a diligent way;
- 7.3 To provide, if required, special equipment and assistance, in particular personnel, necessary for the execution of the requested services;
- 7.4 To ensure that all adequate measures will be taken for the safety of workers and representatives of the Company during the execution of the services;
- 7.5 To promptly take all necessary measures to ensure that no obstruction shall prevent the Company from carrying out the requested services;
- 7.6 To inform the Company in advance of all the known and/or suspected risks or dangers of whatever nature, present or future, linked to all orders, samples or tests requests, including but not limited to the presence or risk of radiation, toxic substances, harmful or explosive materials and pollution;
- 7.7 To fulfil all its obligations under the terms of any contract with third parties to whom the services delivered by the Company relate, whether a report or certificate has been issued by the Company or not, failing which the Company will not incur any liability towards the Principal.

8. Third party laboratory analysis and other intervention

- 8.1 If the Principal requests an analysis of samples by its own laboratory or a third party laboratory, the Company will inform the Principal of the result of the analysis, but will not be responsible for the accuracy of the analysis or the results.
- 8.2 When the Principal asks the Company to only attest to the intervention of a third party, it acknowledges that the sole responsibility of the Company consists of being present at the time of the intervention of the third party or, as the case may be, reviewing documents attesting to such third party intervention, and communicating the results of the intervention, or confirming that it took place. In such cases the Principal acknowledges that the Company shall not be responsible for the sampling, the calibration of any equipment used, the methods of analysis followed, the professional qualifications, the acts or omissions of the personnel of the third party, or of the results of any other intervention.

9. Liability and Indemnity

- 9.1 EUSACERT’s liability is limited to the direct costs of the certification service provided.
- 9.2 EUSACERT is not responsible for any consequential or indirect damages arising from the use of its certification services.

10. Termination and Withdrawal of Certification

- 10.1 EUSACERT may withdraw certification if the client fails to maintain compliance with applicable standards.
- 10.2 Clients may voluntarily terminate their certification by providing written notice to EUSACERT.

11. Complaints and Appeals

- 11.1 Clients have the right to appeal any certification decision within 30 days of receiving the decision.
- 11.2 Complaints regarding the certification process or EUSACERT personnel must be submitted in writing.
- 11.3 EUSACERT will investigate all appeals and complaints in a fair and impartial manner.

12. Price and invoicing

- 12.1 The Principal will pay at the latest within thirty (30) days from the date of the invoice, or within any other time limit which may have been agreed in writing with the Company, all the fees due to and/or any expenses incurred by the Company as a result of the performance of its services, failing which interest on arrears will be due at the current liberal rates or minimum of zero percent + 1.5% per month as from the date when the payment was due until the actual date of payment.
- 12.2 The Principal will not have the right to retain, defer or set-off the payment due to the Company by invoking a dispute, a counterclaim or compensation against the Company.
- 12.3 The Principal will also have to pay the Company all the expenses incurred in recovering arrears due to the Principal’s late payment, including lawyer’s fees and other legal expenses.
- 12.4 If unforeseen problems arise or if the Company incurs extraordinary expenses for the execution of the services, the Company will have the right to invoice the amounts necessary to cover the time and the additional expenses of bringing the contract or mandate to a conclusion.
- 12.5 The Company reserves the right to suspend its services if the obligations specified in clause 10.1 are not fulfilled by the Principal and arrears accrue for a period exceeding 1 (one) month. Such suspension of services shall not be regarded as a breach of the Company’s contractual obligations, or relieve the Principal from its payment obligations to the Company.
- 12.6 The Company reserves the right to modify the terms of payment provided for in clause 10.1 if it considers the financial standing of the Principal materially altered.

13. Claim

- 13.1 The Principal must notify any claim for loss, damage or costs (“Loss”) to the Company address, in writing, immediately after the discovery of the facts causing the Loss.
- 13.2 In addition, the Principal may initiate legal action as per Article 14 below, no later than 3 (three) months from such discovery and no later than 1 (one) year after (a) the date of execution of the service giving rise to the Principal’s claim; or (b) the date on which the aforesaid service should have been carried out in the case of an alleged non-performance, failing which the Company will be released from any liability towards the Principal.

14. Confidentiality

- 14.1 EUSACERT shall maintain the confidentiality of all client information, except where required by law or accreditation bodies.
- 14.2 The client agrees that EUSACERT may disclose certification status to regulatory authorities as necessary.

15. Use of Certification Marks

- 15.1 Upon receiving certification, the client is authorized to use the CE mark in accordance with the relevant directives.
- 15.2 Misuse of the certification mark, including false claims of certification, may result in suspension or withdrawal of certification.

16. Amendments and modifications

- 16.1 EUSACERT reserves the right to amend these terms and conditions at any time.
- 16.2 Clients will be notified of any significant changes to these terms in writing or via the EUSACERT website.

17. Disclaimers

- 17.1 The Company does not guarantee nor make any representation about i) the accuracy and authenticity of the documents, titles and pledges presented to it in the process of carrying out its mandate and ii) quantity, qualities and fitness for purpose of the goods inspected beyond the scope of the inspection mandate received. The Company accepts no responsibility for the consequences of any action taken or not taken on the basis of reports/certificates issued by the Company.
- 17.2 An inspection mandate does not imply an obligation to examine title/ownership of goods to be inspected.
- 17.3 The Company does not perform the services of a guarantor or insurer and cannot be held liable for acting as such.
- 17.4 Services provided do not automatically include verification of origin nor of third party IP rights attached to the inspected goods.

18. Governing Law and Jurisdiction

- 18.1 These terms shall be governed by the laws of Spain.
- 18.2 Any disputes arising from these terms shall be subject to the exclusive jurisdiction of the courts in Madrid, Spain.

19. Communication and Languages

- 19.1 Communications between the Principal and the Company shall be deemed to be properly given only when sent by post, courier, hand delivery or email to the other party’s company email address, to the exclusion of all other communication means. Any communication sent via an instant messaging application shall have to be confirmed by email to be considered as effectively made.
- 19.2 These General Terms and Conditions have been drawn up in English on the Company website <http://www.eusacert.com>. In the event of inconsistency, the English text shall prevail.