

Contract



SERVICE AGREEMENT for Software Testing for KNX Devices

This Service Agreement dated on the related cost estimate (Offer) is between the company identified there as:
the Client (the “Client”)

and

Futurasmus KNX Test Lab, S.L. (with VAT Nr. B54374491), of
C/ Capitán Martí, 16-Bajo A, 03550 Sant Joan d’Alacant, Spain (the “KNX Test Lab”)

WHEREAS:

- The “KNX Test Lab” has agreed to provide services to the Customer on the terms and conditions set out in this Agreement, while Customer is of the opinion that the “KNX Test Lab” has the proper and necessary qualifications, experience and abilities to provide services to the Customer (as accredited by the KNX Association).
- Both parties (Companies) are legally able to enter into this Agreement and the delegates who sign on their behalf are legally competent to do so.
- The “KNX Test Lab” has offered to provide services to **the Client** with regard to the Testing of Software for KNX Devices of the **related Offer** and the Client has accepted the offer in written.
- In the performance of this Contract, confidentiality, avoidance of conflicts of interest with regards to intellectual property rights and timeliness are of essence.

1.- SCOPE OF WORK

The “KNX Test Lab” is to provide the Customer with the following services (the “Services”):

- a) To carry out the “KNX system and interworking Testing” to verify the conformity of the software of **the BDUT (Bus Devices Under Test) of the related Offer**, as a requisite to achieve the KNX certification granted by the KNX Association.
- b) After the execution of the KNX Testing phase, if the product complies with the interoperability and functionality provisions as defined in the KNX Handbook, the “KNX Test Lab” will submit a final report with the results both to the “Client” and to the KNX Association (as the only authority in the certification of KNX products).

If, during the course of the KNX device tests, a change in the scope of work was done by the “Client”, the procedure to manage orders, quotations and agreements will have to be repeated, according to the KNX Test Lab’s quality management system.

2.- CONTRACT DURATION

The term of this Agreement will begin on the date of this Agreement and will remain in full force and effect until the completion of the Services (either by interruption of the tests due to causes attributable to the Client or by means of a final report with either “Compliant” or “Non-compliant” result).

In the event that either Party wishes to terminate this Agreement prior to the completion of the Services, the Party will be required to provide 10 days’ written notice to the other Party.

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3.- CURRENCY AND COMPENSATION

Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in € (euros).

For the services rendered by the KNX Test Lab as required by this Agreement, the Client will provide compensation of the fixed amount established in the **related Offer**.

The Client will be invoiced after work is complete. Invoices submitted by the KNX Test Lab to the Client are due within 30 days of receipt.

4.- CONFIDENTIALITY

Confidential information refers to any data or information relating to the business of the Client which would reasonably be considered to be proprietary of the Client including, but not limited to, KNX application program, handbooks, Client correspondence, etc. that is not generally known in the KNX industry and where the release of that Confidential Information could reasonably be expected to cause harm to the Client.

The KNX Test Lab agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which the KNX Test Lab has obtained, except if authorized by the Client or as required by law. The obligations of confidentiality will apply during the term of this Agreement and will survive indefinitely upon termination of this Agreement.

All written and oral information and material disclosed or provided by the Client to the KNX Test Lab under this Agreement is Confidential Information regardless of whether it was provided before or after the date of this Agreement and how it was provided to the KNX Test Lab.

5.- OWNERSHIP OF INTELLECTUAL PROPERTY

All intellectual property and related material that is developed or produced under this Agreement will be the property of the KNX Test Lab. Title, copyright, intellectual property rights and distribution rights of the Intellectual Property remain exclusively with the KNX Test Lab.

6.- RETURN OF PROPERTY

Upon the expiry or termination of this Agreement, the KNX Test Lab will return to the Client any property, documentation, records, or Confidential Information which is the property of the Client.

7.- RELATIONSHIP OF THE PARTIES

The Parties acknowledge and agree that the Services performed by the KNX Test Lab engineers have no participation in the development of the products to be certified.

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8.- WARRANTY

The KNX Test Lab represents and warrants that:

- it will perform the Services with reasonable care and skill; and
- the Services and the Materials provided by the KNX Test Lab to the Client under this Agreement will not infringe or violate any intellectual property rights or other right of any third party.

9.- GOVERNING LAW

It is the intention of the Parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be constructed in accordance with and governed, to the exclusion of the law or any other forum, by the laws of the Kingdom of Spain, without regard to the jurisdiction in which any action or special proceeding may be instituted.

10.- DISCLAIMER

The “KNX Test Lab” commits to verify the compliance of the Device-under-test with the provisions of the KNX Handbook (Volume 8, section 7, chapter 1, in the most recent version) as thoroughly as possible and to the best of the abilities of the Technical Department staff and with utmost diligence.

Nevertheless, due to the incommensurable number of software combinations possible allowed by a KNX device’s application program, Futurasmus KNX Test Lab, S.L. hereby absolves itself of any liability relating to and thus shall not be accountable for any damage (to property or persons) or losses of any nature derived from the configuration, installation and/or commissioning of the **BDUT** into a KNX System at any time in the future.

Finally, Futurasmus KNX Test Lab, S.L. will not be held liable for any damages occurred to the Devices-under-test during the regular and diligent course of the test, or damages infringed by third persons (shipping, subcontractors, etc.)