



GENERAL CONDITIONS OF SERVICE

1. APPLICATION OF GENERAL CONDITIONS; DEFINITIONS

1.1 The definitions in this Article apply in these General Conditions:

Agreement: the Company's acceptance of a completed Agreement or other instructions for Services from the Client, or Company's acceptance of an agreed quotation for Services, or any instruction or request for Services by a Client and subsequent acceptance by the Company and performance of Services by the Company for the Client. These General Conditions govern each Agreement unless separate terms and conditions are agreed to in writing between the Client and the Company.

Client: the person, firm, company, partnership, association, trust, or government agency or authority that purchases Services from the Company and as identified in the applicable Agreement or agreed written instruction.

Party and Parties: individually the Company or the Client and collectively the Company and the Client.

Reports: all documents and products created by the Company or its agents, subcontractors, consultants and employees in relation to the performance of the Services.

Services: the services to be provided by the Company to the Client under the Agreement or in any other instruction from the Client to the extent that they are agreed by the Company and incorporated into the Agreement. Notwithstanding anything to the contrary contained in these General Conditions, in the event that additional services may be required to enable the Company to provide the Services such as further sample preparation, preliminary experimental work, or research, the fees charged for such additional services carried out by the Company shall be in accordance with the Company's then applicable fee list.

1.2 For the avoidance of doubt, the Client's standard terms and conditions (if any) attached to, enclosed with or referred to in any Agreement or other document shall not govern the Agreement.

1.3 The Company acts for the Client only. Except as provided in the Agreement, the Agreement is entered into solely between and may be enforced only by the Client and the Company. The Agreement shall not be deemed to create any rights in third parties, including without limitation suppliers or customers of a Party, or to create any obligation of a Party to such third parties.

2. COMPANY'S OBLIGATIONS

2.1 The Company shall, with reasonable care, skill and diligence as expected of a competent body experienced in the certification, inspection, auditing and testing industry and in performing services of a similar nature under similar circumstances, provide the Services, and deliver the Reports to the Client, in accordance with:

2.1.1 the specific requirements as set out in the Agreement;

2.1.2 such methods as the Company shall deem suitable on a case by case basis having regard to professional, industry standard, technical and/or government or regulatory grounds; and

2.1.3 any performance dates specified in the Agreement (such dates to be estimates only and time shall not be of the essence for performance of the Services).

2.2 The Company, in the capacity of an independent party, provides information to its clients in the form of ascertainment, assessment or recommendations, relative to regulatory requirements, general industry standards and/or any other standards that may be mutually agreed in writing by the Parties.

2.3 The Company performs surveys, inspections, verifications, certifications, tests, assessments, audits and/or appraisals, as agreed by the Parties, with independence, impartiality and

objectivity. Such information is communicated to the Client in the form of the Reports.

2.4 In providing the Services, the Company does not take the place of designers, architects, builders, contractors, manufacturers, producers, operators, transporters, importers or owners, who, notwithstanding the Company's actions, are not released from any of their obligations of whatever nature. IN PARTICULAR, ANY INFORMATION AND RECOMMENDATIONS SUPPLIED BY THE COMPANY SHALL NOT BE HELD OR CONSTRUED TO AMOUNT TO APPROVAL OR ACCEPTANCE OF THE ITEMS IN CONNECTION WITH WHICH THE INFORMATION AND RECOMMENDATIONS ARE SUPPLIED OR OF THEIR QUALITY, MERCHANTABILITY OR FITNESS FOR ANY PURPOSE.

2.5 For the avoidance of doubt, the Company does not fulfil the role of an insurer or a guarantor in respect of the adequacy, quality, merchantability, fitness for purpose, compliance or performance of products, services or other activities undertaken or produced by the Client to which the Services relate. Notwithstanding any provision to the contrary contained herein or in any Report, no warranty or guarantee, express or implied, including any warranty of merchantability or fitness for a particular purpose or use, is made by the Company for any activities undertaken by the Client or any product manufactured, distributed, imported, or sold by the Client.

2.6 The Reports are given only in relation to the written instructions, documents, information and samples provided by the Client prior to the performance of the Services. The Company cannot be held liable for any error, omission or inaccuracy in the Reports to the extent that the Company has been given erroneous or incomplete information by the Client. The Reports reflect the findings of the Company at the time of performance of the Services only. The Company shall have no obligation to update the Reports after issuance, except as otherwise stated in the Agreement. Client will indemnify Company for any claim brought against Company due to the information provided by Client being inaccurate.

2.7 For those Services requiring sampling, the Reports will set out the findings of the Company solely in respect of the samples identified therein. Unless specifically and expressly indicated in the Reports, the results set out in such Reports may not be indicative or representative of the quality or characteristics of the bulk or lot from which a sample is taken, and the Client shall not rely upon the Reports as being so indicative or representative of the lot or of the tested product in general.

2.8 Unless specifically instructed to the contrary by the Client and incorporated into the scope of the Services under the Agreement, documents concerning undertakings entered into between the Client and other interested parties, such as contracts of sale, supply or work contracts, letters of credit, bills of lading, specifications, datasheets, letters of commissioning, certificates of acceptance or conformity, and which are divulged to the Company, shall be considered to be for information only, without either extending or restricting the Company's scope of Services or obligations under the Agreement.

2.9 Unless expressly agreed in writing by the Parties to the contrary, the Company may, in its sole discretion, choose to retain, return to the Client or destroy samples which have been furnished to the Company for performance of Services and which have not been destroyed in the course of the Services. If a Client requires the Company to return any samples thereto (or to a third party), all costs associated therewith shall be borne and paid for by the Client forthwith on demand by the Company.

3. CLIENT'S OBLIGATIONS

3.1 The Client shall:

3.1.1 Co-operate with the Company in all matters relating to the Services and take all necessary steps to eliminate

or remedy any obstructions to or interruptions in the performance of the Services;

- 3.1.2 Provide, or cause its suppliers to provide, in a timely manner, access to the Client's facilities and personnel as required by the Company, its agents, subcontractors, consultants and employees, to perform the Services. The Client will be responsible for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, correcting or removing any actual or potentially hazardous conditions or materials from any of its premises before and during the supply of the Services at those premises. The Client shall adopt all necessary measures to ensure safety and security of working conditions on site during performance of the Services and inform the Company of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Client's premises;
- 3.1.3 Provide the Company, its agents, subcontractors and representatives with all necessary transportation and equipment, such equipment to be in good working order, for provision of the Services;
- 3.1.4 Provide the Company, either directly or through its suppliers and subcontractors, in a timely manner, such information as the Company may require for the proper performance of the Services and ensure that such information is accurate in all material respects;
- 3.1.5 Where necessary, obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services and the use of the Client's equipment; and
- 3.1.6 Ensure that all documents, information and material made available by the Client to the Company under the Agreement do not and will not infringe, or constitute an infringement or misappropriation of, any patent, copyright, trademark, trade secret, licence or other intellectual property rights or proprietary rights of any third party.

3.2 To the extent that the Company renders Services, the Client agrees that the Company does not owe any specific success but only such Services. The Client is responsible for exercising its own, independent judgment with regard to the information and recommendations provided by the Company. Neither the Company nor any of its agents warrant the quality, outcome, effectiveness or appropriateness of any decision or action undertaken on the basis of the Reports provided under the Agreement.

3.3 If the Company's performance of its obligations under the Agreement is prevented or delayed by any act, omission, default or negligence of the Client, its agents, subcontractors, consultants or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Client arising directly or indirectly from such prevention or delay.

3.4 If the Client anticipates the use of any Reports in any legal proceeding, arbitration, dispute resolution forum or other proceeding, it shall so notify the Company in writing prior to submitting the Agreement for the Services and in any event prior to the use of such Reports in any such proceeding. The Parties agree that the Company has no obligation to provide an expert witness or witness of fact at such proceeding unless the Company gives its prior consent in writing.

4. CHARGES AND PAYMENT

4.1 The Client shall pay each valid invoice submitted to it by the Company, in full and in cleared funds, within thirty (30) days of the date of the invoice.

4.2 If the Client fails to pay the Company on the due date, the Company may charge interest on such sum from the due date for payment at the monthly rate of 1.5%, accruing on a daily basis and being compounded monthly until payment is made, whether before or after any judgment; and suspend all Services

until payment has been made in full. The fees and any additional charges are exclusive of all applicable taxes. Client shall reimburse Company for all reasonable costs and expenses of collection, including reasonable attorney's fees.

5. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

5.1 "Intellectual Property" shall mean all patents, rights to inventions, utility models, copyright and related rights, trade marks, logos, service marks, trade dress, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets), methods and protocols for Services, and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals, reversions or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

5.2 Each Party exclusively owns all rights to its Intellectual Property whether created before or after the commencement date of the Agreement and whether or not associated with any Agreement between the Parties.

5.3 Neither Party shall contest the validity of the other Party's Intellectual Property rights nor take any action that might impair the value or goodwill associated with the Intellectual Property of the other Party or its affiliates.

5.4 Each Party shall take all necessary steps to ensure that it operates at all times in accordance with all applicable data protection laws and regulations.

5.5 The names, service marks, trademarks and copyrights of the Company and its affiliates shall not be used by the Client except solely to the extent that the Client obtains the prior written approval of the Company and then only in the manner prescribed by the Company.

5.6 For avoidance of doubt, nothing in the Reports or any other writing shall convey any rights of ownership or license whatsoever to the Company's intellectual property of its proprietary software, nor to the Company's proprietary audit methods, training materials and best practices manual, nor to the Company's protocols, nor to the Company's name, logo, marks, or other trade dress nor any other existing or later developed Intellectual Property rights or know-how developed and used to perform the Services and Reports. These shall remain the sole property of the Company. Further, the Reports do not convey ownership or licensing rights to any third party's Intellectual property that may be contained or referenced in the Reports.

6. CONFIDENTIALITY AND COMPANY'S PROPERTY

6.1 "Confidential Information" shall mean any information disclosed in whatever form, by a Party to the other Party including, but not necessarily limited to, technical, environmental, commercial, legal and financial information relating directly or indirectly to the Parties and/or to the Agreement.

6.2 Each of the Parties shall not disclose or use for any purpose whatsoever any of the confidential knowledge or Confidential Information or any financial or trading information which it may acquire or receive within the scope of the performance of the Agreement, without the prior written consent of the Party that disclosed the Confidential Information.

6.3 The confidentiality undertaking shall not apply to any information:

6.3.1 which is publicly available or becomes publicly available through no act of the receiving Party;

6.3.2 which was in the possession of the receiving Party prior to its disclosure;

- 6.3.3 which is disclosed to the receiving Party by a third party who did not acquire the information under an obligation of confidentiality;
- 6.3.4 which is independently developed or acquired by the receiving Party without use of or reference to Confidential Information received from the disclosing Party;
- 6.3.5 which is disclosed in accordance with the requirements of law, any stock exchange regulation or any binding judgment, order or requirement of any court or other competent authority; or
- 6.3.6 which is disclosed to an affiliate of the Party on a need to know basis, provided that such affiliate treats the information as confidential.
- 6.4 The Reports are issued by the Company and are intended for the exclusive use of the Client and shall not be published, used for advertising purposes, copied or replicated for distribution to any other person or entity or otherwise publicly disclosed without the prior written consent of the Company.
- 6.5 Each Party shall be responsible for ensuring that all persons to whom Confidential Information is disclosed under the Agreement shall keep such information confidential and shall not disclose or divulge the same to any unauthorized person or entity, and shall assume full responsibility for any breach of said undertaking.
- 6.6 On expiry or termination of the Agreement for any reason and at the direction of the other Party, each Party shall return or destroy the other Party's Confidential Information which is at that time in its possession or under its control, provided, however, that nothing herein shall prohibit the Company from maintaining copies of Reports and analysis in accordance with its record retention policies and document retention policies as may be required by law or accreditation bodies.
- 7. LIMITATION OF LIABILITY**
- 7.1 Notwithstanding any other provision of the Agreement, neither Party shall be liable to the other Party for indirect, incidental or consequential losses or damages (including, without limitation, punitive and exemplary damages, loss of earnings, loss of production, loss of value or decrease in earnings from any goods or property, including, without limitation, loss of use, loss of financial advantage, business interruption or downtime).
- 7.2 Without prejudice to Article 7.1, the total liability of the Company and its affiliates, and their respective employees, agents, consultants, and subcontractors, in contract, tort (including, but not limited to, negligence, gross negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in any manner in connection with or related to the Services, the Reports, and the performance, or contemplated performance, of the Agreement shall be limited to the greater of:
- 7.2.1 A sum equivalent to five (5) times the amount of fees paid or payable by the Client to the Company in respect of the Services that give rise to the Company's liability to the Client; or
- 7.2.2 Ten thousand (10,000) dollars (USD).
- 7.3 The Client shall indemnify the Company and its affiliates, and their respective employees, directors, agents, consultants or subcontractors against, and hold them harmless against, all claims made by third parties for loss, damage or expense of whatever nature (including, but not limited to negligence and gross negligence) and howsoever arising, relating to the performance, purported performance or non-performance of any Service, to the extent that the aggregate of such claims for any one Service exceeds the limitation of liability as set out in Article 7.2 above.
- 7.4 Without prejudice to Articles 7.1 and 7.2, the Company shall not be liable to the Client for and the Client shall be precluded from bringing any claim for damages and/or losses, unless notice of such claim is received by the Company before twelve (12) months after the earlier of (i) the date of performance by the Company of the Services which give rise to the claim, or (ii) the date when the Services should have been completed in the event of any alleged non-performance.
- 7.5 The Company shall not be liable to the Client for and the Client shall be precluded from bringing any claim for damages and/or losses, if such claim relates to the Client's samples. It is specifically recorded that the Company's insurance does not cover any loss or damage to any samples of the Client. Should the Client require insurance for such samples, it should proceed to obtain such insurance at its own cost and expense.
- 8. FORCE MAJEURE**
- 8.1 For the purposes of this Article 8, "Force Majeure" shall mean an event, the occurrence of which is beyond the reasonable control of the claiming Party, and which renders either the Client or the Company unable, wholly or in part to carry out its obligations under the Agreement (other than the obligation to make payments of sums due to the other Party), which inability could not have been prevented or overcome by the claiming Party exercising reasonable foresight, planning and implementation.
- 8.2 Neither Party shall be liable for any loss or damage resulting from any delay or failure in performance of its obligations hereunder resulting directly or indirectly from an act of Force Majeure. If the disability continues for more than fifteen (15) days, then the non-disabled Party will have the right to terminate this Agreement without incurring any liability whatsoever.
- 9. SUBCONTRACTING**
- 9.1 The Company at its sole discretion may delegate the performance of all or a portion of the Services under the Agreement to an affiliate, agent or subcontractor of the Company without prior notice to the Client, and the Client hereby consents to such delegation.
- 10. GOVERNING LAW AND JURISDICTION**
- 10.1 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of Florida, notwithstanding any conflicts of laws rules that could require the application of any other laws.
- 10.2 The Parties irrevocably agree that the courts of Florida shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter.
- 10.3 If Client makes a claim against Company, for any alleged error, omission, or other act arising out of the performance of its professional services and to the extent the Client fails to prove such claim, then the Client shall pay all costs including attorney's fees incurred by Company in defending the claim.
- 11. COUNTERPARTS**
- 11.1 The Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the instrument.
- 12. TERMINATION**
- 12.1 The Agreement may be terminated by the Company at any time by giving thirty (30) days prior written notice to the Client.
- 12.2 On termination of the Agreement for any reason the Client shall pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company may submit an invoice which shall be payable immediately on receipt.
- 12.3 Without prejudice to any other rights or remedies which the Parties may have, either Party may terminate the Agreement without liability to the other on giving the other not less than seven (7) days written notice to the other if:

the other Party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than fifteen (15) days after being notified in writing to make such payment;

the other Party commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within fifteen (15) days of that Party being notified in writing of the breach;

the other Party repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement;

the other Party becomes unable to pay its debts as and when they become due;

the other Party becomes insolvent or enters receivership (for financial or other reasons), or insolvency or bankruptcy proceedings are commenced by or against such Party;

the other Party assigns or transfers any right or interest in this Agreement other than as authorized under this Agreement; or he other Party suspends or ceases or threatens to suspend or cease to carry on all or a substantial part of its business