

ELEMENT MATERIALS TECHNOLOGY LA

whom the Customer has had dealings in connection with the Contract and/or the provision of the Services during the 12 months immediately prior to the earlier of the date of the Customer's purchase order or the date of the Quotation; or

- 3.8.2 employ (directly or through a third party) any person as referred to in sub-condition 3.8.1 or engage them in any way to provide services to the Customer. For clarity, this shall not apply in respect of any member of the Company's staff who without having been previously approached directly or indirectly by the Customer responds to an advertisement placed by the Customer or on the Customer's behalf.

such amount as would be just and equitable for the Company to pay having regard to the Company's responsibility for the particular loss or damage.

- 5.9 Nothing in these Terms and Conditions limits or excludes the liability of the Company for:
- 5.9.1 death or personal injury resulting from negligence; or
 - 5.9.2 liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Company; or
 - 5.9.3 any other matter which may not be limited or excluded by law.
- 5.10 This condition 5 shall survive termination of the Contract.

6. Intellectual Property Rights

- 6.1 In this condition 6, the following definitions apply:
- Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, 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) and any other intellectual property rights (now existing or hereafter created), in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
- 6.2 All Intellectual Property Rights (including copyright in reports, records, certificates, written statements, scientific documentary, primary data or electronic means of handling data) produced during any Service

understandings between them, whether written or oral, relating to its subject matter.

- 10.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

11. Severability

If any provision or remedy herein provided for be invalid or unenforceable or unlawful under any applicable law in whole or in part, it shall be deemed to be amended in so far as it is possible to do so in order to make it enforceable whilst retaining its purpose or severed from the Contract if it is not possible to do so and the remaining provisions of these Terms and Conditions, including any

17. Anti-Corruption

The Customer undertakes to comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Criminal Justice (Corruption Offences) Act 2018 ("**Anti-Corruption Laws**") and that it shall not do, nor omit to do, any act that will lead to the Company being in breach of any of the Anti-Corruption Laws. The Customer shall:

17.1.1 comply with the Company's Anti-corruption policies as may be notified by the Company to the Customer and updated from time to time ("**Relevant Policies**");

ANNEX 1 - SERVICE SPECIFIC TERMS

Part A.

The following paragraphs shall apply to the supply of testing, analysis, assay, inspection, calibration and/or other similar services.

1. Delivery by the Customer to the Company of Samples and treatment of Samples / Customer property

- a. The delivery to the Company by the Customer of any item for testing or calibration by the Company (a "**Sample**") or the delivery of any request by the Customer to the Company for the provision of any similar services shall, upon acceptance of that Sample or request by the Company, constitute an 'offer' (as referred to in sub-condition 1.4). If the Company begins such testing, calibration or similar services on that Sample, the offer shall be deemed to have been accepted by the Company and a Contract shall be formed.
- b. The delivery by the Customer to the Company of a Sample shall occur under the Delivery Duty Paid ("**DDP**") Incoterm 2020© rules. Pursuant to the DDP rules, the Customer shall assume all responsibilities, risks and costs for the delivery of the Sample to the named place of destination agreed upon between the Company and the Customer in the Contract. The Customer shall be responsible for, but not limited to, (export and import) customs clearance and the payment of any duties and taxes until the Sample has reached its named place of destination.
- c. Should a P/O number or equivalent reference be required for payment of any invoices, it is the responsibility of the Customer to ensure that this is provided at the time of the submission of samples. Any delays in providing a P/O number or reference or MSDS/other applicable safety data details will be subject to an administrative surcharge, (which will be multiplied for each item of missing information).
- d. The Company shall receive the Sample at the named place of destination and may offer assistance to the Customer for the unloading of the Sample upon delivery.
- e. In any event, the Company shall not bear any risks and costs nor assume any responsibilities in respect of the unloading process of the Sample at the named place of destination. The Company shall not be liable in respect of any costs or losses resulting from damage to or destruction of the Sample at the time of the unloading of the Sample.
- f. Title to the Customer's property which is delivered to the Company and all risk of loss or damage to such property (except for loss or damage caused by the Company and for which and to the extent that the Company accepts liability under these Terms and Conditions) shall remain with the Customer at all times, who shall be responsible for effecting and maintaining its own insurance cover in relation thereto, it being hereby acknowledged by the

- good laboratory practices (GLP) or ISO 17025 (as appropriate and identified in the Contract) based on standards and state of knowledge at the time the Services are provided.
- d. Where agreed in the Contract, the Company will use reasonable endeavours to provide written information, results, technical reports, certificates, test or inspection records, drawings, recommendations, advice or the like in respect of the Services (the "Report") or certificate thereon to the Customer by any date agreed. Reports are issued on the basis of information known to the Company at the time that the Services are carried out. Although the Company will use all reasonable endeavours to ensure accuracy, the Services depend, inter alia, on the effective co-operation of the Customer, its staff and on the information submitted to the Company. All Reports are prepared on the basis that:
 - i. there is no responsibility to any person or body other than the Customer;
 - ii. they are not produced for any particular purpose and no statement is to be deemed, in any circumstances to be or give rise to a representation, undertaking, warranty or contractual condition unless specifically stated;
 - iii. the Report is determined solely by the professional analysis undertaken by the Company's staff on each individual Contract and any forecasts by the Company of the results is an estimate only;
 - iv. the Company is entitled to be paid the Consideration irrespective of the results or conclusions reached in the Report;
 - v. the results of the Services shall address the items and information submitted only and are not to be regarded as representative of any larger population from which the Sample was taken; and
 - vi. the results are final and approved by the Company. The Company shall be under no liability where the Customer has acted on preliminary, unapproved results or advice.
 - e. The Customer is responsible for reviewing Reports and evaluating the results to determine the impact on the safety, identity, strength, quality and/or purity of their Sample, product or test article. The draft Report will remain open for comments and approvals for 30 days (unless such other period is agreed by the Company) following the delivery of the first draft report, after which a final revision will be issued. In relation to any radiography reports and film delivered or interpreted as part of the performance of the Services (if applicable), the Customer shall notify the Company, within fourteen (14) days from date of issue of such radiography reports and film, of any Customer or third party dispute concerning either the radiographic quality or interpretation of results. If the Customer does not so notify the Company within this fourteen (14) day period, the Customer will be deemed to have accepted the radiography reports and film, together with any interpretation of these, provided by the Company.
 - f. The Reports constitute confidential information that is to be protected and shall be used solely to:
 - i. assist the Customer in completing its internal requirements and the Company in performing Services for the Customer;
 - ii. comply with the Customer's requirements for the use of the data recited in the Reports and agreed with Company; or
 - iii. as required by law or any regulatory body.
 - g. For the avoidance of doubt, Reports may not be shared with any other analytical laboratories or any companies working on analysis (including extractable and leachables testing and/or regulated consumer products).
 - h. The Customer hereby undertakes that it shall not:
 - i. disclose a Report (or information contained within a Report) to any third party without the prior written consent of the Company;
 - ii. replicate or present a Report except in full as delivered by the Company without the prior written consent of the Company; or
 - iii. use a Report, or any portion thereof, in any manner that might reflect unfavourably upon the Company or any of its Group Companies, or which might be, or might include statements, interpretations or comments that could be, misleading or false or for any purpose other than that which the Report was instructed as was agreed with the Company in advance of the Report being instructed. For clarity, Company shall bear no duty of care or contractual liability to the Customer or to third parties in respect of uses not so disclosed. The Customer agrees to indemnify Company against any third party claims for any loss or injury arising out of any use not disclosed to Company.
 - i. When certification is granted in relation to any Services, the Company shall award a licence to the Customer to use the Company's certification mark(s) and logos for the certification validity period, subject to the applicable terms of use (as amended from time to time) which are issued with every certification and are available on request.
- 4. Court Proceedings / Expert Witness**
- a. Company will limit its activities to fields in which it has direct experience and knowledge. Unless otherwise agreed in the Contract, all results produced will be presented as either a factual certificate of analysis or as a study report where interpretations of analytical data are opinion-based industry scientific practice and current state of knowledge based on information supplied by the Customer and analytical data supplied by Company and/or its approved suppliers at the time. Unless the Quotation clarifies that the contracting party is not registered as an expert witnesses company, the Company cannot enter into discussions or proffer opinions on the application or consequence of the results, other than those directly relating to the analytical procedures undertaken and will not undertake testing on products, samples or specimens for the purposes of supporting active litigation unless specifically agreed in writing.

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reserves the right at any time to change or discontinue without notice, any aspect or feature of this portal. No information shall be construed as advice and information is offered for information purposes only and is not intended for trading purposes.

c. **Public Forums and User Submissions.** Company is not