

TERMS AND CONDITIONS

1. Interpretation

- 1.1 In these conditions:
‘CLIENT’ means the person who accepts a quotation of the Company for the provision of the Services or whose order for the Services is accepted by the Company.
‘COMPANY’ means ENVIROCHEM ANALYTICAL LABORATORIES LIMITED (registered in England under number 2378228)
‘CONDITIONS’ means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Client and the Company
‘CONTRACT’ means the contract for the provision of the services
‘OUTPUT MATERIAL’ means data, drawings, plans, documents, test results and other information prepared by the Company in relation to the Services
‘SERVICES’ means the provision of consultancy, testing, survey, training, inspection or other services for which the company undertakes to perform for The Client under the Contract.
‘WRITING’ includes electronic mail, facsimile transmission and comparable means of communication
- 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. Basis of the sale

- 2.1 The Company shall provide the Services and Client shall pay for the same in accordance with any written quotation or tender of the Company which is accepted by the Client, or any written order of the Client which is accepted by the Company, subject in either case to these conditions, which shall govern the Contract to the exclusion of any other terms and conditions.
- 2.2 No Variation to these Conditions shall be binding unless agreed in Writing between the authorised representative of the Client and the Company.
- 2.3 The Company’s employees or agents are not authorised to make any representations concerning the Services unless confirmed by the Company in Writing. In entering into the Contract the Client acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.4 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance or offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

3. Orders and specifications

- 3.1 No order submitted by the Client shall be deemed to be accepted by the Company unless and until confirmed in Writing by the Company’s authorised representative.
- 3.2 The Client shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Client, and for giving the Company any necessary information

relating to the Services within a sufficient time to enable the Company to perform the Contract in accordance with its terms.

- 3.3 The company reserves the right to make any changes in the specification of the Services which are required to conform with any safety or other statutory requirements.
- 3.4 No order which has been accepted by the Company may be cancelled by the Client except with the agreement in Writing of the Company and on condition that the Client shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as the result of cancellation.

4. Assignments and Sub-Contracting

- 4.1 The Company will perform the Services using its own staff. However, the company reserves its right to sub-contract the whole or part of the work and will notify the Client accordingly.

5. Price of Services

- 5.1 The price of the Services shall be the Company's quoted price. All prices quoted are valid for 30 days only or until earlier acceptance by the Client, after which time they may be altered by the Company without giving notice to the Client.
- 5.2 The Company reserves the right by giving notice to the Client at any time before commencement of the Service, to increase the price of the Services to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), or any delay caused by any instructions of the Client or failure of the Client to give the Company adequate information or instructions.
- 5.3 Value Added Tax ("VAT") will be added to all charges at the rate applicable at the tax point at the time of invoice. Where the Client is registered for VAT within the European Union but outside the United Kingdom the work will be zero-rated provided The Company has been notified of the Clients VAT registration number. If the Client is not registered or The Company has not been so notified, VAT at the rate applicable at the tax point shall become payable.

6. Terms of payment

- 6.1 Subject to any special terms agreed in Writing between the Client and the Company, the Company shall be entitled to invoice the Client for the price of the Services on or at any time after commencement of the same.
- 6.2 The Client shall pay the price of the Services inclusive of VAT where applicable (but without any other deduction) within 30 days of the date of the Company's invoice in pounds Sterling. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 6.3 If the Client fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
 - 6.3.1 cancel the Contract or suspend any further provisions of the Services to the Client. Any such period of suspension shall be disregarded for the purpose of contractual time limits previously agreed for the completion of the services
 - 6.3.2 under The Late Payment of Commercial Debts (Interest) Act 1998, charge the Client interest (both before and after any judgement) on the amount unpaid, at the rate of 4% per annum above (NatWest Bank) base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); and
 - 6.3.3 charge the Client the costs of recovery of any outstanding amount including legal costs and disbursements and charge any Bank charges incurred on representing cheques or requesting special clearance thereof.

7. Force Majeur

- 7.1 The company shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Services, if the delay or failure was due to any cause beyond the Company's reasonable control.

8. Accuracy

- 8.1 Any results provided by the Company comprising advice data and conclusions are based on information supplied by the Client and evidence known at the time to the Company. The Client shall supply all necessary information, data, drawings and items necessary to the timescale required by the Company and shall arrange, at the Client's expense and risk, for the conveyance of all test items to and from the Company's laboratories unless the conveyance of samples and other items forms an integral part of the Work. All Data provided, conclusions reached, or recommendations made by the Company rely on scientific and engineering concepts disciplines and procedures used or adopted by the Company and the Company does not warrant that the same will necessarily be achieved by other parties, or that such conclusions or recommendations will necessarily be valid in circumstances other than those of which the Company has direct experience. Any results are believed to be accurate and reliable subject to the limitations of normal experimental uncertainties.
- 8.2 Any report produced by the Company for the benefit of the Client relates solely to the goods or samples reported on and not bulk from which the goods or samples were drawn.

9. Confidentiality and Intellectual Property

- 9.1 The property, and any copyright, design rights or other intellectual property rights in any Output Material shall, unless otherwise agreed in Writing between the Client and the Company, belong to the Company, but the Client shall be entitled to use the Output Material for the purposes of utilising the Services by way of an exclusive licence, subject to payment in full of all sums payable under this contract.
- 9.2 Any information provided by the Client which is so designated by the Client and any Output Material shall be kept confidential by the Company, and all Output Material or other information provided by the Company which is so designated by the Company shall be kept confidential by the Client: but the foregoing shall not apply to any documents or other materials, data or other information which either party is required to disclose by law or by statutory requirements or which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.
- 9.3 The Output Material is prepared exclusively for the Client for the purposes of the Contract and may not under any circumstances be used by any third party. The Company is not liable for any Output Material so used and the Client shall indemnify the Company against all liability and loss, damages and expenses awarded against or incurred by the Company in connection with any claims by third parties in connection with such use of the Output Material.
- 9.4 While the Company is not aware, to the best of its knowledge, that any Output Material is in infringement of any design rights, copyright or other intellectual property rights of any third party, it does not give any particular warranty in this respect.

10. Warranty and Limitation of Liability

- 10.1 Apart from the internal quality control measures, the Company participates in various proficiency testing schemes and is accredited by UKAS for asbestos sampling and testing (list of accredited tests available on request).
- 10.2 Except as expressly provided in this Contract and so far as is permitted by statute all warranties, conditions, guarantees or representations, express or implied, statutory or otherwise are hereby excluded, and the Company shall not be liable for any loss, damage, expense or injury of any kind whatsoever, consequential or otherwise, arising out of or due to or caused by any defects or deficiencies of any sort in the Services, (including any delay in providing or failure to provide the Services) whether such defects or deficiencies are caused by the negligence of the Company or its employees or agents or otherwise.

- 10.3 The Services are provided to and for the benefit of the Client exclusively and all collateral warranties are hereby excluded. The Company shall not be liable to any third party who seeks to use the Services without the Company's express written permission for any loss, damage, expense or injury of any kind whatsoever, consequential or otherwise, arising out of or due to or caused by any defects or deficiencies of any sort in the Services whether such defects or deficiencies are caused by the negligence of the Company or its employees or agents or otherwise.
- 10.4 The Company shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from any instructions supplied by the Client which are incomplete, incorrect, inaccurate, or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Client.
- 10.5 No liability is accepted by the Company for loss or damage howsoever caused to any goods or samples submitted for examination by the Client. Following examination of the goods or samples the remainder will only be returned to the Client upon written request. Unless the Company receives notice in Writing to the contrary the Company shall be entitled to dispose of all goods or samples within 6 months of the completion of the Contract.
- 10.6 Nothing in this Contract shall limit or exclude the Company's liability for death or personal injury resulting from the negligence of the Company or that of its employees or agents.
- 10.7 The entire liability of the Consultancy under or in connection with the Agreement shall not exceed a multiple of 20 (twenty) times the Company's charges for the provision of the Services under the Contract.
- 10.8 The Client shall indemnify and keep the Company indemnified against all costs, expenses, damage or other losses incurred or suffered by the Company as a result of any claims made against the Company due to the infringement of any regulation, enactment or legislation by the Client
- 10.9 The Client is under a duty to mitigate any losses howsoever caused.
- 10.10 The Client acknowledges and agrees that the limitation of liability contained in this clause is:
- 10.10.1 fair and reasonable;
 - 10.10.2 reflected in the level of charges and of insurance cover carried by the Company
 - 10.10.3 just and equitable having regard to the extent of the responsibility of the Company for any loss or damage suffered, on the basis that all other consultants, the contractor and any subcontractors who have a liability shall be deemed to have provided contractual undertakings to the Client on terms no less onerous than those contained in this Contract.

11. Publicity

- 11.1 The Company's name shall not be used in connection with the Contract for purposes of publicity promotion or advertising without the prior written approval of The Company. The Company may publish or join in publishing any description or illustration of the works with the prior consent of the Client.

12. Non-solicitation of Staff

- 12.1 The Client shall not solicit or entice away or seek to entice away from the Company to work for its business, whether as principal, agent, partner, director, employee, secondee or consultant, any person who is or was employed or engaged by the Company in providing the Services.
- 12.2 Should the Client be in breach of 12.1 above, then it shall pay to the Company a sum to cover the Company's reasonable losses in this matter.

13. Processing of Personal Data

13.1 In this clause 13 the following definitions shall apply:

Controller	shall have the meaning given in applicable Data Protection Laws from time to time;
Data Protection Laws	means, as binding on either party or the Services: <ul style="list-style-type: none"> (a) the GDPR; (b) the Data Protection Act 2018; (c) any laws which implement any such laws; and (d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;
Data Subject	shall have the meaning in applicable Data Protection Laws from time to time;
GDPR	means the General Data Protection Regulation, Regulation (EU) 2016/679;
Personal Data	has the meaning given in the applicable Data Protection Laws from time to time;
Personal Data Breach	has the meaning given in the applicable Data Protection Laws from time to time;
Processing	has the meaning given to it in applicable Data Protection Laws from time to time (and related expressions, including process, processed, and processes shall be construed accordingly);
Processor	has the meaning given to it in applicable Data Protection Laws from time to time;
Protected Data	means Personal Data received from or on behalf of the Client in connection with the performance of the Company's obligations under the Contract;
Sub-Processor	means any agent, subcontractor or other third party (excluding its employees) engaged by the Company for carrying out any processing activities on behalf of the Client in respect of the Protected Data;

13.2 The parties agree that the Client is a Controller and that the Company is a Processor for the purposes of processing Protected Data pursuant to the Contract. The Client shall at all times comply with all Data Protection Laws in connection with the processing of Protected Data. The Client shall ensure all instructions given by it to the Company in respect of Protected Data (including the terms of the Contract) shall at all times be in accordance with Data Protection Laws. Nothing in the Contract relieves the Client of any responsibilities or liabilities under any Data Protection Laws.

13.3 The Company shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and the terms of the Contract.

13.4 The Client shall indemnify and keep indemnified the Company against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Client of its obligations under this clause 13.

13.5 The Company shall:

13.5.1 only process (and shall ensure Company Personnel only process) the Protected Data in accordance with **Error! Reference source not found.** and the Contract (including when making any transfer to which clause 13.9 relates), except to the extent:

13.5.1.1 that alternative processing instructions are agreed between the parties in writing; or

- 13.5.1.2 otherwise required by applicable law (and shall inform the Client of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest); and
- 13.5.2 without prejudice to clause 13.2, if the Company believes that any instruction received by it from the Client is likely to infringe the Data Protection Laws it shall promptly inform the Client and be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.
- 13.6 Taking into account the state of technical development and the nature of processing, the Company shall implement and maintain technical and organisational measures to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.
- 13.7 The Company shall:
- 13.7.1 not permit any processing of Protected Data by any agent, subcontractor or other third party (except its or its Sub-Processors' own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the prior written authorisation of the Client;
- 13.7.2 prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a written contract containing materially the same obligations as under this clause 13 (including those relating to sufficient guarantees to implement appropriate technical and organisational measures) that is enforceable by the Company and ensure each such Sub-Processor complies with all such obligations;
- 13.7.3 remain fully liable to the Client under the Contract for all the acts and omissions of each Sub-Processor as if they were its own; and
- 13.7.4 ensure that all persons authorised by the Company or any Sub-Processor to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential.
- 13.8 The Company shall (at the Client's cost):
- 13.8.1 assist the Client in ensuring compliance with the Client's obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the processing and the information available to the Company; and
- 13.8.2 taking into account the nature of the processing, assist the Client (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Client's obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.
- 13.9 The Company shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the United Kingdom or to any International Organisation (as defined in the applicable Data Protection Laws) without the prior written authorisation of the Client.
- 13.10 The Company shall, in accordance with Data Protection Laws, make available to the Client such information that is in its possession or control as is necessary to demonstrate the Company's compliance with the obligations placed on it under this clause 13 and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Client (or another auditor

mandated by the Client) for this purpose (subject to a maximum of one audit request in any 12 month period under this clause 13.10).

- 13.11 The Company shall notify the Client without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.
- 13.12 On the end of the provision of the Services relating to the processing of Protected Data, at the Client's cost and the Client's option, the Company shall either return all of the Protected Data to the Client or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires the Company to store such Protected Data. This clause 13 shall survive termination or expiry of the Contract

14. Dispute Resolution and Applicable Law

- 14.1 Any dispute or difference arising out of or in connection with this Contract shall be referable at the option of either party to adjudication. The person who is to act as the adjudicator shall be agreed between the Client and the Company.
- 14.2 The contract shall in all respects be subject to and construed in accordance with English Law and the Client submits to the exclusive jurisdiction of the English Courts.

15. Events of Default. Termination. Repossession. Suspension

15.1 If:

- 15.1.1 the Client fails to pay any sums when due or otherwise materially breaches any of the terms of the Contract or any other terms agreed with the Company; or
- 15.1.2 the Client is, or for statutory purposes is deemed to be or appears to be unable to pay its debts as they become due, or the value of its assets is less than the amount of its liabilities (including contingent and prospective liabilities) or the Client otherwise becomes insolvent or suspends payment or threatens to do so or ceases to trade; or
- 15.1.3 the Client makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 15.1.4 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client or
- 15.1.5 the Client ceases, or threatens to cease, to carry on business: or
- 15.1.6 where the Client is an individual or partnership, he or any partner dies; or
- 15.1.7 outside England and Wales anything corresponding to any of the above occurs; or
- 15.1.8 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client.

15.2 Then in the above cases the Client shall notify the Company forthwith in writing of such event and in all cases the Company may (at its discretion, whether or not it has received notice from the Client as aforesaid, and without prejudice to its other rights hereunder or otherwise) at any time by notice to the Client do any one or more of the following:

- 15.2.1 terminate, cancel and/or rescind the Contract and other contracts with the Client;
- 15.2.2 declare immediately due, payable and interest-bearing under clause 6.3.2 above any amounts owed by the Client to the Company under any contract;

15.2.3 suspend the provision of any Services to the Client;

15.2.4 proceed against the Client for any sums owing under the Contract and/or damages, as appropriate.

16. General

16.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

16.2 No waiver by the Company of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.

16.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder or the provision in question shall not be affected thereby

16.4 The parties acknowledge that, except as specifically provided in this Contract, it is not their intention that any third party shall be entitled to enforce any term of this Contract which may confer a benefit on that third party, whether any such entitlement would, but for this provision, arise under the Contracts (Rights of Third Parties) Act 1999 or otherwise.