

CONSTRUCTION TESTING SOLUTIONS LIMITED (the Company) STANDARD TERMS AND CONDITIONS OF CONTRACT

THESE ARE THE STANDARD TERMS AND CONDITIONS OF CONTRACT REFERRED TO IN THE QUOTATION

The following standard conditions apply to the Quotation, the corresponding Order and every future Order accepted by or contract entered into between the parties for the provision of testing, investigation, evaluation, consultancy and research services, certification, accreditation and training services and any other Services to be provided by the Company to the Client.

1. DEFINITIONS

1.1 In these Conditions the following capitalised expressions shall have the following meanings (unless otherwise expressly provided):-

"**Anti-Corruption Laws**" means all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including the Bribery Act 2010;

"**Company's Persons**" means the Company's directors, employees, sub- contractors, and agents

"**Condition**" means a condition or clause of these Conditions;

"**Conditions**" means the Company's standard conditions of sale set out in this document (which supersede any earlier set of conditions appearing in the Company's brochure or elsewhere) together with any other special conditions specified on the Quotation or otherwise;

"**the Contract**" means the Quotation, the Order and the Company's acceptance thereof, together with the Conditions;

"**the Client**" means the person or other entity or firm specified on the Quotation whose Order is accepted by the Company;

"**Delivery**" means, where the Services comprise the production of reports or test results, the dispatch by the Company of those results or reports by post or other carrier to the Client and the expression "delivered" shall be construed accordingly;

"**the Goods**" means the goods, materials and/or other items which may be part of the Contract and upon which the Services are to be conducted and shall include any part of them

"**Labtrac**" means the Company's bespoke job scheduling and registration application for iOS and Android devices;

"**Losses**" means:

- (a) all loss, damage and expense sustained by any third party or any Company's Persons,
- (b) all loss, damage and expense incurred or likely to be incurred by the Company (including loss of profits, the cost of all labour and materials, overhead, damage to Company property, and any other costs, charges, expenses or losses); and
- (c) all legal, administration, and other costs and expenses associated with recovering such amounts;

"**the Order**" means the written order placed by the Client on the Company for the provision of the Services;

"**Other Premises**" means any premises not usually occupied by the Company or under the direct control of the Company, and includes the Client's premises;

"**Quotation**" means the Company's written quotation or tender submitted by the Company or any verbal quotation or tender which is subsequently confirmed in writing;

"**Report**" means any certificate, technical report, non-destructive test or inspection record, drawing, spreadsheet, recommendation or the like issued by the Company in respect of the Services;

"**Services**" means the services described in the Order to be performed by the Company;

"**Sample**" means any matter supplied by the Client, or collected by the Company, to form the basis of a Test (and includes any sample taken from the Goods or otherwise);

"**Service**" or "**Services**" means the service(s) specified in the Quotation (including any Tests, inspection, auditing, certification, consulting, and / or calibration services so specified);

"**Test**" means any testing, analysis, assay, inspection, sampling and sample preparation or the like specified in a Quotation or Proposal, and includes processes and procedures ancillary to the same;

"**Test Certificate**" means any test certificate, recommendation or the like issued by the Company in respect of a Test.

1.2 Where these conditions use "include" or "including" followed by examples, this is used for indicative purposes only and shall be read as "including, but not limited to", and does not restrict the subject matter of the relevant Condition.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4 The parties acknowledge and agree that these Conditions have been jointly negotiated and agreed by the parties and accordingly no provision should not be construed strictly nor shall the contra proferentem rule be applied against either party.

2. OFFER AND ACCEPTANCE

2.1 The Company shall supply and the Client shall receive the Services in accordance with any Quotation which is accepted by the Client, or any Order which is accepted by the Company in writing subject to any variation set out in such acceptance, subject in either case to these Conditions unless otherwise notified by the Company.

2.2 All Quotations are made, and all Orders are accepted subject to the Conditions. These Conditions override any other terms, conditions or warranties which the Client may subsequently seek to impose.

2.3 No variation or supplement to the Conditions by the Client shall be binding on the Company unless expressly accepted by the Company in writing.

2.4 The Client may not omit Services amounting to more than 30% of the Services instructed by the Contract.

2.5 No Contract shall come into existence until the Order has been accepted in writing by the Company, such acceptance may be by email but not by facsimile.

2.6 Acceptance of Quotations must be notified to the Company within 90 days from and including the date of the Quotation (or such longer period as the Company may, acting in its discretion, specifically agree in writing). The Company reserves the right to withdraw the Quotation orally or by written notice at any time prior to

acceptance by the Company of the Quotation.

2.7 If any statement or representation has been made to the Client by the Company or its servants or agents upon which the Client relies other than in the documents enclosed with the Quotation or acknowledgement or acceptance of Order then the Client must set out that statement or representation in a document to be attached to or endorsed on the Order and in any such case the Company may confirm, reject or clarify the point and submit a new Quotation at its discretion. Otherwise the Contract constitutes the entire agreement between the parties and each party agrees that it has not relied on any representation or warranty by the other party that is not expressly set out in the Contract.

2.8 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgement of Order, invoice or other document issued by the Company shall be subject to correction without any liability on the part of the Company.

2.9 The Company shall be at liberty to withdraw from any negotiations or otherwise, without being under any liability whatsoever to the Client, until such time as the Contract shall have become binding.

2.10 Any advice or recommendation given by the Company or Company Persons to the Client or its employees or agents as to the storage, application or use of the Goods which does not form part of the Contract, is followed or acted upon entirely at the Client's own risk, and the Company shall not be liable for any such advice or recommendation.

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 for ensuring the accuracy of the terms of the Order and any other information provided to the Company and shall provide the Company with all necessary information to enable the Company to proceed with the Contract. The Client agrees that if it discovers that any information provided is not accurate or complete, it will notify the Company of this as soon as the Client becomes aware of it. Any failure to do so will allow the Company to charge the Client an additional price for any delay or to terminate the Contract with immediate effect.

3.3 The Client shall indemnify the Company and its sub-contractors against all claims, damages, costs, penalties and expenses incurred by the Company or its sub-contractors to which the Company may become liable if any work done in accordance with the Client's specifications or requirements involves an infringement of a registered design, trademark, patent or other intellectual property right.

3.4 No Order which has been accepted by the Company may be cancelled by the Client except with the written agreement of the Company and on terms 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 a result of cancellation.

3.5 All Services are confidential to the Client and any report or certificate issued by the Company shall not be issued or reproduced by the Client (in whole or in part) to any third party without the Company's written authorisation.

3.6 If the Client wishes to copy any Report produced by the Company as part of the Services, it may do so but only in its entirety and in the form provided by the Company, and only for the use agreed by the Company. The Client shall not, without the written consent of the Company (at the Company's absolute discretion), reproduce or replicate any report which has been modified from the form provided by the Company. Results supplied in reports shall not be used in advertising or promotional literature without the Company's express written permission.

3.7 Without limitation to Condition 3.6, the Client shall and must inform the Company before the Company provides a Quotation if the Services or any Report will or may be used by the Client for the purpose of litigation or other proceedings.

3.8 If the presence of the Company's Persons will be required at a court or other judicial or quasi-judicial hearing as expert witness or otherwise, or the Report is required as evidence in a dispute, immediate notification is required in order to provide time for discussion between expert witness and legal representatives and/or for consideration of all relevant documentation. If this is not expressly provided for in the Services or otherwise agreed in writing then the Company may refuse, in its absolute discretion, to provide such services. The Company must be shown full particulars of any claim which is pursued or defended which is held by the Client and as soon as received by the Client.

3.9 Results of all tests quoted in the Report issued by the Company, relate only to the Sample and should not be construed or interpreted in any other way. The Client will ensure that the Sample is sufficiently large, securely packaged and clearly identified. Any opinion, interpretation or comments marked "Not UKAS" in a report are not included in the UKAS Accreditation Schedule for the Company and are outside the scope of UKAS accreditation.

3.10 Tests marked "Not UKAS" accredited in a Report are not included in the UKAS Accreditation Schedule for the Company's laboratories and are outside the scope of the Company's accreditation.

3.11 Where a Report is produced as part of the Services, the Report together with the Contract shall constitute the entire agreement and understanding between the Company and the Client in respect of the Services and supersedes and extinguishes all other agreements, statements, representations, prior arrangements, undertakings or warranties (whether written or oral) or between the parties and all prior representations and expressions of opinion by any party (or its agent) to any other party (or its agent).

3.12 Save as specifically and expressly set out in any written Report issued by the Company, the Company gives no warranty that the Goods will be of satisfactory or merchantable quality and/or reasonably fit for their purpose.

4. PRICE

4.1 The price for the Services shall be the price quoted on the Quotation or in the absence of any price being quoted, on the Company's current list price ruling at the time the Order was made. Until an Order has become binding on the Company all specifications and prices are subject to change by the Company without prior notice to the Client. A verbal Quotation shall only be binding to the extent it is confirmed in writing.

4.2 All prices are exclusive of value added tax and similar taxes, levies, courier charges or duties, or any other disbursements, which the Client shall be additionally liable to pay to the Company.

4.3 The Company reserves the right, by giving notice to the Client, at any time before

- completion of the Services, to increase the price of the Services to reflect any increase in the cost to the Company in executing the Contract due to any factor beyond the reasonable control of the Company including:
- 4.3.1 any alteration to or the enactment of any legislation regulations or any other enactment relating to the Services;
- 4.3.2 any increase in the cost of labour, raw materials, overheads, or currency;
- 4.3.3 any change in completion dates (or other delay), quantities, or specifications for the Goods or the Services arising as a result of any error or omission or changes deemed necessary by the Client, and/or
- 4.3.4 any delay or interruption in the Contract not attributable to the Company.
- 5. TERMS OF PAYMENT**
- 5.1 Unless otherwise agreed in writing, the Company may invoice the Client on completion of the Services or, where the Services are of a long-term nature, on an interim basis from time to time.
- 5.2 The Company reserves the right, at its option, to require payment in part or in full for the Services prior to the work being done and reserves the right to withhold any test result or certificate until such payment is received.
- 5.3 Unless otherwise agreed by the Company in the Contract the final date for payment shall be 30 days from the date of invoice. Receipts for payment will only be issued on request.
- 5.4 No right of set-off shall exist in respect of any claims by the Client against the Company unless and until such claims are accepted in full by the Company in writing and the Client shall not withhold all or any part of any sum which has become due for payment under the Contract by way of set-off, counterclaim, discount, abatement or otherwise.
- 5.5 If the Client fails to make any payment due to the Company (whether under the Contract or otherwise) on the due date then, without prejudice to any other right or remedy available to the Company, the Company reserves the right to:-
- 5.5.1 immediately cease the Services until such sum is paid or terminate the Contract with immediate effect, so far as any Services remain to be performed under it; and
- 5.5.2 charge the Client interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per annum above Barclays 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).
- 5.6 All payments due to the Company shall be payable as set out in this Condition 5 irrespective of whether the Client has recovered payment from any third party.
- 6. PAYMENT UNDER THE ACT**
- 6.1 To the extent that the performance of the Services constitutes "construction operations" within the meaning of section 105 of the Housing Grants, Construction and Regeneration Act (1996) (as amended) ("the Act") the following provisions apply:
- 6.1.1 the due date for payment is the date of the invoice;
- 6.1.2 no later than five days after the due date the Client shall notify the Company of the sum that the Client considers to have been due at the due date and the basis on which that sum is calculated (the "Payment Notice");
- 6.1.3 unless the Client has served a Pay Less Notice under Condition 6.1.4, it shall pay the Company the sum as set out in the Company's invoice (or, if the Client has served a Payment Notice, the sum referred to in that Payment Notice) (the "Notified Sum") on or before the final date for payment; and
- 6.1.4 not less than five days before the final date for payment, the Client may give the Company written notice that it intends to pay less than the Notified Sum (a "Pay Less Notice"). Any Pay Less Notice shall specify (1) the sum that the Client considers to be due on the date the notice is served and (2) the basis on which that sum is calculated.
- 7. EXECUTION OF SERVICES AND TESTS**
- 7.1 The Services and Tests shall be carried out singly unless prior written instructions from the Client are received for replicates or unless the Company considers replicates are necessary or desirable. The Company reserves the right to charge for replicates even if the original result is confirmed.
- 7.2 The Client shall supply as much information as possible about each Sample and / or Service requirement in order to assist in achieving an efficient Service. Where Samples are incorrectly described or poorly identified and the Company is involved in additional work, the Company reserves the right to charge for such additional work.
- 7.3 Unless specific prior instructions in writing are received by the Company, the Service and Test shall be carried out on the Sample in the state in which the Sample is received. The Company reserves the right to charge for any work required to be carried out to the Sample prior to the performance of any Service or Test.
- 7.4 Methods of carrying out the Test shall be at the sole discretion of the Company unless specific prior instructions in writing are received by the Client specifying a particular procedure which are agreed to by the Company. Charges for such special procedures will be negotiated and agreed to between the Company and the Client prior to carrying out the Test.
- 7.5 A general description of the method used in the Test shall be given verbally by the Company to the Client on request, should such description be reasonably required by the Client and agreed to by the Company. Where written descriptions of detailed procedures are requested, whether as part of the Test Certificate, Report, or issued separately, the Company reserves the right to make an additional charge for the issue of such descriptions. If the method needed in the Test represents the end product of development work carried out at the Company's expense, the method shall only be revealed at the absolute discretion of the Company.
- 7.6 If special standards or equipment are used in the Test, they shall be invoiced in addition to the charge of the Test itself in accordance with Condition 5 of these Conditions.
- 7.7 The Company may, at its sole discretion, undertake to give priority in carrying out a particular Test. A surcharge may be imposed by the Company for the carrying out of priority work. (Details of these arrangements will be issued by the Company on reasonable request by the Client and acceptance of such issue by the Company.)
- 8. OBLIGATIONS OF THE CLIENT**
- 8.1 The Client shall provide with each Sample and/or Service a unique purchase order or unique reference or unique authorisation with sufficient detail to allow the Company to identify each Sample (if applicable) and relate it to a specific Quotation and Service and the Company shall be entitled to rely upon such purchase order or reference provided to carry out the Service.
- 8.2 The Client shall be bound to inform the Company in writing prior to the Company carrying out any Service on a Client site or Sample that is or may be of a dangerous or unstable nature and provide instruction on the safe visiting of the site or safe handling of the Sample. Dangerous or unstable Samples include any matter in any quantity that could cause harm to persons or to the environment, including radioactive materials, biologically active or hazardous substances, reducing or oxidising agents, volatile organic compounds, materials considered to be toxic, harmful, corrosive, irritant, explosive, flammable, carcinogenic or reproductive hazards or other materials that are dangerous to the environment. The Client shall indemnify the Company from and against all Losses suffered by the Company, directly or indirectly arising from or in connection with the failure of the Client to inform the Company of the dangerous or unstable nature of a Client site or Sample and/or to provide adequate instruction on the safe visiting of the site or the handling of the Sample. Where the Client informs the Company that a Sample is of a dangerous or unstable nature, the Company may, in its absolute discretion, elect not to deal with the Sample or carry out the Service and may terminate the Contract with immediate effect.
- 8.3 Where any aspect of the Service is undertaken on Other Premises, it is the responsibility of the Client (at its own cost) to:
- 8.3.1 ensure that all necessary safeguards are in place and all safety measures are taken to comply with all applicable health and safety regulations. Save as otherwise agreed in writing between the parties, or where identification of asbestos is specified in the Services, the Client shall ensure that all asbestos has been removed and/or is safely contained in every area to be visited by the Company during the visit to said premises;
- 8.3.2 provide a safe system of work for the Company while providing the Service;
- 8.3.3 provide the Company with necessary access;
- 8.3.4 ensure that the premises are suitable and sufficiently secure for the relevant purpose (including for the Services to be performed there);
- 8.3.5 provide all usual or otherwise required auxiliary and operating materials (including gas, water, electricity, lighting etc) to enable the Company to use the premises and to safely and securely store Goods or other items there as may be required;
- 8.3.6 provide the Company with any permits required for the performance of the Service; and
- 8.3.7 ensure the Other Premises are appropriately insured for the Services being performed.
- 8.4 The Client shall indemnify the Company and Company's Persons against any Losses or any other consequence of a breach of its obligations under this Condition 8.
- 8.5 The Company reserves the right not to enter any Other Premises if it believes the Client has breached its obligations under this Condition 8, and may terminate the Contract with immediate effect.
- 9. RISK**
- 9.1 The risk of damage to or loss of the Goods ("Risk") shall only pass to the Company, in the case of Goods to be delivered at the Company's premises, at the time when the Goods are unloaded safely and are in the Company's possession and control. Where Goods are delivered to Other Premises, the Company will take reasonable measures to protect the Goods subject to the Client's discharge of its obligations under Condition 8.3, including in respect of site security and storage facilities.
- 9.2 Risk shall pass back to the Client ten business days following the date of the Company's final invoice and the Company shall no longer be responsible for the insurance or storage thereof, save where, and to the extent that, any rules and regulations applicable to the Company provide for or require the Company to store a sample of the Goods with the final Report or where the Client has agreed with the Company and pays for the storage of any retained Samples or other Goods.
- 9.3 Unless specifically agreed otherwise in writing it shall be at the discretion of the Company as to whether the Services require destructive testing and in such circumstances, where it determines that this is required, the Company shall have the right to destroy the Goods (or part of the Goods) at its sole discretion.
- 9.4 Without prejudice to any other right of disposal the Company may have under these Conditions, the Company shall have the right to destroy Goods after the completion of the Services.
- 9.5 When Goods have not been collected by the Client within five business days of a written request to do so from the Company the Company shall be entitled to render a reasonable charge to the Client for the cost of storing and/or disposal of the Goods.
- 10. TITLE**
- 10.1 Title in the Goods or any part of them shall not pass to the Company, unless the Client has informed the Company to the contrary before delivering them to it.
- 10.2 It is the Client's responsibility to deliver the Goods which form part of the Services and to collect them promptly upon completion of the Services.
- 11. LIMITATION OF LIABILITY**
- 11.1 Where the Goods are delivered to the Company for the Services and such Goods are, under the Contract, returnable to the Client then if the Company is unable for any reason to return the Goods to the Client (taking into account Condition 7.3), the Company's liability in respect of the missing Goods shall not exceed the replacement cost of goods of the same description, if available in the United Kingdom, or if they are not available there, their cost to the Client.
- 11.2 Where the Client supplies inconsistent instructions on any matter relating to the Services, the Company shall not be liable for any loss, damage, error or mistake which results from following any of those instructions in good faith.
- 11.3 Subject to Condition 9.1 the Company shall not be liable to the Client for any loss or damage, whether direct, consequential or otherwise, resulting from any inaccuracy in the results reported unless caused by the Company's proven negligence.
- 11.4 Subject to Condition 9.1 and further to Condition 3.5 and 3.6, the Company shall not be liable to any third parties who rely on the information given in any report produced as part of the Services.
- 11.5 Reports are based on the law, methods, technology and conventional wisdom and knowledge available or current at the time and the Company shall not be liable to the Client for any changes in the same which become available after the date of any such report.
- 11.6 Subject to Condition 11.1 in no circumstances shall the Company be liable to the Client, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof.

- 11.6.1 for any increased costs or expenses;
- 11.6.2 for any loss of profit, business, contracts, revenues or anticipated savings damage to goodwill, loss of revenue; or
- 11.6.3 for any special indirect or consequential damage of any nature whatsoever, arising directly or indirectly out of the provision of the Services or of any error or defect therein, or of the performance, non-performance or delayed performance of the Company.
- 11.7 The Client agrees with the Company that if the Client shall suffer loss or damage as a result of any breach of any of the terms of the Contract by the Company or its servants or agents or as a result of the negligence of the Company or its servants or agents then the liability of the Company in respect of such loss or damage (taking into account Conditions 11.1 to 11.6) shall be limited to the lower of the following:-
- 11.7.1 the actual amount of any loss or damage suffered by the Client; or
- 11.7.2 a sum which is equal to the value of 125% of the value of the price paid for the Services charged to the Client; or
- 11.7.3 the sum of one hundred thousand pounds (£100,000)
- 11.8 The limitation of the liability of the Company as referred to in Condition 11.7 shall subsist indefinitely notwithstanding the termination or completion of the Contract.
- 11.9 The Client shall be responsible for arranging any insurance cover and paying all premiums to afford protection in respect of any loss or damage which it may suffer as a result of any breach failure or negligence upon the part of the Company or its servants or agents as referred to in Condition 11.7. Verification of the insurances the Client holds shall be provided to the Company on demand (which may be in the form of a broker's letter).
- 11.10 The limitation of liability contained in Condition 11.7 shall extend and apply not only to the Company but also to its servants and duly authorised agents.
- 11.11 The limitation of liability contained in Condition 11.7 shall not apply to any liability of the Company for:
- 11.11.1 any death or personal injury arising as a result of the negligence of the Company, as defined by Section 11 of the Unfair Contract Terms Act 1977; or
- 11.11.2 under section 2(3) of the Consumer Protection Act 1987; or
- 11.11.3 any matter which it would be illegal for the Company to exclude or to attempt to exclude or limit its liability or;
- 11.11.4 for fraud or fraudulent misrepresentation.
- 12. ACCEPTANCE OF LIMITATION OF LIABILITY BY THE CLIENT**
- 12.1 The Client agrees and accepts that, the Company's limitation of liability is fair and reasonable, including in respect of:
- 12.1.1 the potential losses which could or might be caused as a result of any breach or negligence as referred to in Condition 11 are greatly in excess and wholly disproportionate to the amount which is being charged by the Company to the Client in respect of the provision by the Company of the various services referred to in the Contract;
- 12.1.2 the Company is mindful to keep its charges in respect of the Services provided by it to as low a level as reasonably possible for the benefit of the Client and all of the Company's other Clients; and
- 12.1.3 the cost of the Company procuring additional insurance cover would likely be disproportionately expensive given the nature of the services and the price being paid by the Client.
- 12.2 The Client confirms that:
- 12.2.1 it has read and fully understands the terms of both Condition 11 and Condition 12;
- 12.2.2 it has been offered the opportunity to pay a higher charge for the Services in return for the Company accepting a higher level of liability but has declined to do so;
- 12.2.3 it accepts the limitation of liability in Condition 11 on this basis.
- 13. INDEMNITY**
- 13.1 The Client undertakes to indemnify the Company against all Losses howsoever caused save for death or personal injury caused in whole or in part by the Company's proven negligence.
- 13.2 The Client undertakes to indemnify the Company against any Losses in respect of the Client's failure to comply with any statutory requirement or regulation applying to the provision of the Services.
- 14. DEFAULT OR INSOLVENCY OF CLIENT**
- 14.1 Condition 14 applies if:-
- 14.1.1 the Client defaults in any of his commitments with the Company, including failure to make payment of the price or any part thereof within the specified time; or
- 14.1.2 the Client makes any voluntary arrangement with his creditors or becomes subject to an administration order or becomes bankrupt; or (being a company) goes into liquidation (other than for the purposes of amalgamation or reconstruction); or
- 14.1.3 an encumbrancer takes possession, or a receiver is appointed, of any of the property and assets of the Client; or
- 14.1.4 the Client ceases, or threatens to cease, to carry on business; or
- 14.1.5 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.
- 14.1.6 If Condition 14 applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to immediately cease providing Services and terminate the Contract with immediate effect and to withdraw any certificates that have been awarded or offered.
- 14.2 In the event of an occurrence as outlined in Condition 14.1, then the Client shall indemnify the Company against all Losses connected with the Contract and its cancellation.
- 14.3 If the Client shall become aware that any of the circumstances mentioned in Condition 14.1 has or is likely to occur, then the Client shall inform the Company of the occurrence or likely occurrence of such event immediately in writing (which may be by email but not by facsimile).
- 14.4 The Client shall indemnify the Company in respect of all Losses resulting from any breach by the Client of these Conditions, or the Contract or its lawful termination by the Company.
- 15. FORCE MAJEURE**
- 15.1 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 failure to perform, any of the
- Company's obligations in relation to the Contract if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:
- 15.1.1 act of God, explosion, flood, tempest, fire or accident;
- 15.1.2 war or threat of war, sabotage, civil disturbance or requisition;
- 15.1.3 acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 15.1.4 import or export regulations or embargoes;
- 15.1.5 strikes, lockouts or other industrial actions or trade disputes (whether involving Company's Persons or third parties);
- 15.1.6 pandemic or endemic or the potential outbreak of a pandemic or endemic including regulations or rules imposed by the United Kingdom's government as a result of a pandemic or endemic or the potential outbreak of a pandemic or endemic;
- 15.1.7 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 15.1.8 power failure or breakdown in machinery.
- 15.1.9 lack of co-operation by the Client.
- 16. INTELLECTUAL PROPERTY**
- 16.1 All intellectual property, including copyright in any report or other written material produced by the Company, shall belong to the Company and shall not, save as specifically agreed otherwise in writing, be reproduced or copied in whole or in part.
- 16.2 Ownership and copyright in the report shall remain with the Company. Upon the Client discharging all its obligations under the contract, including payment of the price, the Client will obtain an irrevocable, royalty-free, non-exclusive licence to make internal use of the Report within the Client's organisation, subject to these Conditions.
- 16.3 The Client hereby warrants that it will not use the Report, or any other reports, result, or information supplied by the Company for the purpose of advertisement or publication to third parties. The Report and any results, information and reports within it may only be shared, in whole or in part, with the prior written consent of the Company which shall have the right to increase the price where it consents to such advertisements and/or publication.
- 16.4 All intellectual property rights owned by the Company (including service mark(s), trade mark(s), certification marks (s) and other names and logos, and copyright works) shall remain the property of the Company and nothing in these Conditions shall amount to an assignment, licence or other permission to use such rights other than for the purpose of making internal copies of the Report in accordance with Condition 3.
- 16.5 Intellectual property rights belonging to accreditation bodies or standard setting bodies (including certification marks(s), service marks(s), trade marks(s), other names or logos and copyright works) shall remain the property of such body, and may only be used by the Client subject to compliance with the requirements of the relevant standard and obtaining permission from the relevant accreditation body or standard setting body, which may require the Client to enter into an ancillary licence agreement(s).
- 16.6 The Company shall be entitled at any time to audit the use of all service mark(s), trade marks(s), certification marks(s) and other names and logos and copyright works belonging to the Company, an accreditation body or a standard setting body, and investigate any potential infringements of any intellectual property rights belonging to the Company, an accreditation body or a standard setting body. The Company reserves the right to withdraw the right to use any or all service mark(s), trade marks(s), certification mark(s) and other names and logos belonging to the Company an accreditation body or a Standard setting body, in the event of non-compliance with the relevant terms of use or any ancillary agreement(s), or if the Contract is terminated for any reason.
- 16.7 The Client hereby undertakes to abide by any regulations imposed by certification authorities, accreditation bodies, standard setting bodies, or any government or regulatory authority relating to marks, emblems or logos attached to the Reports or any other documents issued pursuant to delivery of the Services, and in particular the Client acknowledges that where the Company makes use of a third party's mark or logo on a certificate, this does not provide the Client with the right to use such third party's mark or logo, which may only be used by the Client subject to compliance with the requirements of any relevant standard and the permission of the third party, which may require the Client to enter into an ancillary licence agreement(s).
- 16.8 The Client shall indemnify the Company against all Losses arising out of or in connection with any claim or threatened claim that the use of any data, equipment, or anything else supplied by the Client for the performance of the Services infringes any intellectual property rights of any third party.
- 17. SUBCONTRACTING**
- 17.1 The Company reserves the right to subcontract the fulfilment of the Order, the Contract or any part of it and may, at its discretion, subcontract the Services to any laboratory that fulfils the regulations in the current UKAS quality system. For Testing and related activities covered by CONSTRUCTION TESTING SOLUTIONS LIMITED accreditation to BS EN ISO/IEC 17025:2017, the Client will be notified of the requirement for subcontracting as part of the standard contract review process.
- 17.2 The Company shall, subject to these Conditions, be responsible to the Client for the actions and omissions of a subcontractor, save where the Client or a regulatory authority has specified which subcontractor is to be used, in which case it shall owe no responsibility to the Client for the actions or omissions of that subcontractor.
- 17.3 The Company shall maintain a register of all subcontractors that it uses for tests and a record of the evidence of compliance with regulatory bodies for its own internal use.
- 17.4 Where any part of the Services are performed by any person as subcontractor or agent for the Company, these Conditions shall, mutatis mutandis apply in respect of the work or services performed by that person.
- 18. SUPPLY OF THE SERVICES**
- 18.1 The Client will provide at the Client's site address (or any Other Premises) adequate and appropriate access to facilitate the supply of the Services by the Company, but not limited to, the supply of appropriate roadways free from overhanging branches. When access to the site reasonably requires the crossing of land which is not owned or occupied by the Client, the Client warrants that he has obtained the necessary consents for access at the times agreed for providing the Services. The Client will indemnify the Company and Company's persons from and against any claim for trespass or damage arising from the crossing of any such

land.

18.2 The Client shall provide the Company with such information as is available regarding the underground services to the site (such as gas mains, electricity cables, water supplies, etc.) including plans and drawings, so as to enable the Company to supply the Services in accordance with the terms of the Contract. In the absence of available information, the Company shall be entitled to carry out a survey of the site which may require additional services which may include confined space working equipment and personnel at the expense of the Client. Where reasonably possible, the Client will be requested to authorise any such additional services in advance; however, where it is not practicable for the Company to obtain such authorisation, the Company may in its absolute discretion cease the Services pending authorisation from the Client.

18.3 The Company will not be liable for the maintenance of any temporary reinstatement carried under the Contract and will not be responsible for permanent reinstatement of the surface at the site unless specifically ordered by the Client under the Contract.

19. ANTI-CORRUPTION

19.1 The Client undertakes to comply with all 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 Anti-Corruption Laws. The Client shall comply with the Company's anti-corruption policies as may be notified to the Client and updated from time to time.

19.2 The Client shall promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Client in connection with the performance of the Contract.

20. GENERAL

20.1 Any notice or Report required or permitted to be given by either party to the other under these Conditions or Services shall be in writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice or report. Notice may be given by email, but not facsimile. Any notice of termination by the Client must be hand delivered or sent by registered post.

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

20.3 If any of the provisions of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions in question shall not be affected thereby.

20.4 The Contract shall be governed by the laws of England and Wales and for the purposes of settlement of any disputes arising out of or in conjunction with these Conditions or the Contract the parties hereby irrevocably submit themselves to the exclusive jurisdiction of the English Courts.

20.5 This Contract is between the Company and the Client and is not assignable to any third party by the Client without the consent of the Company.

20.6 The breach of any Holding, Subsidiary, or Associated Company (as defined in Section 736 of the Companies Act 1985 as amended) of the Client of any of the terms and conditions of any contract agreement or other arrangement with the Company shall be deemed to be a breach of the terms of the Contract and shall entitle the Company to take or refrain from taking all acts and remedies to which it is entitled under these Conditions as if such default had been a breach or default under the Contract.

20.7 Save in the case of subcontractors, or other agents of the Company no person who is not a party to the Contract shall be entitled to enforce any provision of the Contract and to that extent the Contract (Rights of Third Parties) Act 1999 shall not apply to any provision of the Contract.

21. TERMINATION

21.1 The Contract shall terminate automatically on completion of the Services by the Company, but such termination shall be without prejudice to any provision intended to operate thereafter.

21.2 The Company shall not be required to fulfil its duties and obligations under these Conditions and the provisions of this Condition 21 shall not apply if at any time the Company is prevented from fulfilling its duties and obligations by any acts or omissions of the Client or the Client's personnel.

21.3 In the event:

21.3.1 the Client terminates the Contract after the commencement by the Company of the Services; or

21.3.2 the Company exercises any right of termination set out in the Contract:

the Client shall pay to the Company the full value of the Contract including any Services that had been agreed but had not been performed at the date of Termination. The Client must also pay to the Company any overdue payments and interest that the Client owes to the Company under the Contract and any costs incurred by the Company, or other Losses suffered, in collecting from the Client any payments still owed to the Company.

22. THIRD PARTY DROP-OFF LOCATIONS / SAMPLE TRANSPORTATION / LABTRAC

22.1 The Company will provide access to the third-party drop-off locations to allow swift transfer of samples from site to laboratory. The Company does not accept liability for injury or loss occurred at any drop-off location. The Company will control access to the drop-off locations via access codes supplied to the Company by the third-party. The access codes may be changed in line with the third-party security requirements. The access codes are stored in the Labtrac application and will be listed on the Labtrac sample submission emails. The access codes will also be listed on a controlled email notification system for any Client not using Labtrac. On occasion the Company may be required to close access and/or change access codes to drop-off locations without prior notice. The Company shall not accept liability for losses resulting from access being denied to drop-off locations.

22.2 For the transportation of samples from the Client's premises to the drop-off locations and/or the Company's laboratory the Company offer a third-party courier collection service (chargeable at the rate stated in the Quotation). The Company does not accept liability for losses or injury caused by the use of third-party courier firms.

22.3 The data collected in Labtrac is protected in line with the Company's GDPR policies and processes. The Company does not accept liability for losses resulting from the use of Labtrac. All data is entered into Labtrac by Client representatives and the Company shall not accept liability for incorrect data or losses resulting from any incorrect data entered into Labtrac.