

TERMS AND CONDITIONS OF BUSINESS AND PROCEDURES OPERATED BY THE SUPPLIER

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF *CLAUSE 6* (LIMITATION OF LIABILITY).

1. INTERPRETATION

THE FOLLOWING DEFINITIONS AND RULES OF INTERPRETATION APPLY IN THESE CONDITIONS.

1.1. Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in Northern Ireland, when banks in Belfast are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 5 (Charges and payment).

Commencement Date: has the meaning given in 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with the remaining terms set out below.

Contract: the Conditions together with the Order for the supply of Services.

Customer: the individual or business entity who purchases Services from the Supplier by way of Order.

Customer Default: has the meaning set out in clause 4.2

Deliverables: the deliverables set out in the Order to be produced by the Supplier for the Customer including but not limited to analyses, interpretations, assessments, consulting work, analytical reports and conclusions.

Order: the Customer's order for Services as set out in the Customer's QC1 Sample Analysis Request Form

Samples: means those portions of material submitted to the Supplier by the Customer for testing as part of the Services.

Sampling Plan: means a plan prepared by the Supplier on the Customer's instruction in accordance with clause 3.1, including but not limited to a plan of which samples of which raw materials and finished products should be provided to the Supplier and the frequency at which the Samples should be analysed.

Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Specification.

Specification: the description or specification of the Services agreed between Customer and Supplier

Supplier: Bio Search (N.I.) Limited registered in Northern Ireland with company number NI023096, its registered office being situated at Dufferin Road, Belfast Harbour Estate, Belfast, BT3 9AA.

Supplier Materials: has the meaning set out in clause 4.1(h).

2. BASIS OF CONTRACT

- 2.1. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2. The Order shall only be deemed to be accepted at the date and time on which the Supplier proceeds to fulfil that order (without the need for any written confirmation being required to be given by the Supplier) (**Commencement Date**).
- 2.3. Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are indicative only, and are only issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not be construed as a representation made by the Supplier, or form part of the Contract nor have any contractual force.
- 2.4. The Contract applies to the Services to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5. Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 90 Business Days from its date of issue.

3. SUPPLY OF SERVICES

- 3.1. The Customer shall submit an Order for the Services to the Supplier with the Samples.
- 3.2. On receipt of an Order from the Customer, the Supplier shall proceed with agreed testing.
- 3.3. The Supplier shall use reasonable endeavours to supply the Services to the Customer in accordance with the Specification and any Sampling Plan provided by the Supplier as applicable, in all material respects.
- 3.4. Where services cannot be delivered as specified, samples may be subcontracted to an alternative laboratory without first seeking the consent from the Customer to avoid delay and stability issues. In all cases, efforts to communicate with the Customer will be made as soon as is reasonable to do so.
- 3.5. The Supplier shall use all reasonable endeavours to meet any performance dates specified, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services. Sample test certificates will be issued within two working days of the final completion of the Supplier's analysis. Any results which are beyond the scope of the Specification will be reported to the Customer as soon as possible by email.

3.6. The Supplier reserves the right to amend the Specification if necessary, to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

3.7. **Repeat Analysis:** Objections to test results may be made to the Supplier in writing within 30 days after the Customer receives those results from the Supplier. Notwithstanding, unless it appears that the results of a repeat analysis does not match those of the initial analysis, the Customer shall be liable in full in respect of the costs connected with the repeat analysis. Furthermore, a repeat analysis will only be conducted if the Supplier has a sufficient amount of the original Sample available at the date on which the Customer's objection is received by the Supplier. In the event that this is not the case, the Customer shall be liable for all costs associated with the repeat analysis (including for the avoidance of doubt, Sample costs, transportation costs, analytical and disposal costs).

4. CUSTOMER'S OBLIGATIONS

4.1. The Customer shall:

- a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
- b) co-operate with the Supplier in all matters relating to the Services including completion of Sample analysis paperwork that must accompany all Samples being submitted for analysis;
- c) for sampling and consultation services, provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;
- d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- e) prepare the Customer's premises for the supply of the Services;
- f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- g) comply with all applicable laws, including health and safety laws;
- h) keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
- i) comply with any additional obligations as set out in the Specification;

- j) warrant to the Supplier that no Samples or products within their possession or control pose any danger or risk, whether such Samples or products are located on the Customer's site, during transportation in the Supplier's laboratory or otherwise. It is the Customer's responsibility to ensure compliance with hazardous waste regulations, including regarding information, labelling, transportation and disposal and to inform the Supplier's personnel or other representatives in relation to health and safety concerns and/or risks regarding Samples and/or other products, including any known or suspected toxic or other contaminant that may present in the Sample or product and its likely level of contamination, in addition to any risks or perceived risks to the Supplier's premises, instruments, personnel and representatives.

4.2. If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations. If the Customer Default remains outstanding for a period of [60 days], the Supplier shall have the right to terminate performance of the Services and demand repayment in accordance with clause 4.2(c);
- b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause; and
- c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT

- 5.1. The Charges for the Services, shall be calculated per test on each Sample (unless otherwise stated) in accordance with the quotation supplied by the Supplier
- 5.2. The Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 5.3. The Supplier reserves the right to increase the Charges on an annual basis with effect from each anniversary of the Commencement Date. Any increase to the Charges will only apply to Orders placed on or after the date on which the increase to the Charges takes effect.
- 5.4. The Supplier shall invoice the Customer monthly on completion of services

- 5.5. The Customer shall pay each invoice submitted by the Supplier:
- a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
 - b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and
 - c) time for payment shall be of the essence of the Contract.
- 5.6. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.7. If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 7, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 5.8. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 6. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 6.1. Nothing in the Contract shall limit or exclude the Supplier's liability for:
- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - b) fraud or fraudulent misrepresentation; or
 - c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 6.2. Subject to clause 6.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- a) loss of profits;
 - b) loss of data;
 - c) loss of sales or business;
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- d) loss of agreements or contracts;
- e) loss of anticipated savings;
- f) loss of use or corruption of software, data or information;
- g) loss of damage to goodwill; and
- h) any indirect or consequential loss.

6.3. Subject to clause 6.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the lesser of:

- (i) the direct and immediate loss or damage caused by the Supplier's breach of its obligations under the Contract in respect of the performance of the Services; or
- (ii) The amount of Charges received by the Supplier from the Customer under the Contract.

6.4. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

6.5. The Customer acknowledges that the Services are provided by the Supplier in accordance with the conditions available to the Supplier, including the current technology available and methods developed and as such, the results of the Services may not always be fully accurate and/or relevant. The Supplier warrants that Deliverables will be prepared with a commercially reasonable degree of care and skill, however the Supplier does not warrant that same will always be correct, accurate or absolute. This limited warranty expires six months after the delivery date of the Deliverables provided as part of the Services. It is acknowledged that the Customer must independently verify the validity of any Deliverables supplied by the Supplier, if the Customer intends to rely on same in respect of matters of importance or priority and shall do so at its own risk.

6.6. Each analytical report provided as part of the Deliverables under the Services relates exclusively to the Sample provided by the Customer and analysed by the Supplier. If the Customer does not instruct and pay the Supplier to provide a Sampling Plan in accordance with clause 3.1, or if the Customer does not follow the Supplier's instructions or recommendations, the Supplier shall not be liable whether in contract, tort (including negligence), breach of statutory duty, or otherwise, in the event that any sampling plan provided by the Customer, and/or instructions given by the Customer for the range of analysis to be performed are deemed to be insufficient or inappropriate.

6.7. The Customer is responsible for the proper and satisfactory delivery of Samples sent to the Supplier for examination/analyses or materials sent for production. Unless otherwise specifically agreed in writing by the Supplier, the Supplier accepts no responsibility for any loss or damage, which may occur to any Sample in transit or to any facility or site where logistics services are being delivered. The Customer will at all times be liable for the security, packaging and insurance of the Sample from its dispatch until it is delivered to the offices or the Supplier's laboratories. The Supplier will use commercially reasonable care

in handling and storing Samples, but the Supplier shall not be held responsible for any loss or destruction of Samples even after receipt of same by the Supplier at its laboratories.

- 6.8. The Customer warrants and represents to the Supplier that all Samples sent to the Supplier for analysis are safe and in a stable condition and undertakes to indemnify the Supplier for any losses, injuries, claims and costs which the Supplier, its servants, agents or personnel, may suffer as a result of any Sample not being in a safe or stable condition, notwithstanding that the Customer may have given an indication on the Sample or any order form of any perceived problem with the Sample required for the Services. The Customer must always inform the Supplier in writing prior to shipment (and ensure that any packaging is appropriately and clearly labelled) in respect of Samples (or containers) are / have the ability of being dangerous or otherwise hazardous in nature.
- 6.9. Where the Supplier supplies any software to the Customer, the Customer shall use such software in accordance with the applicable licence terms, instructions and manuals.
- 6.10. It is a condition of this Contract that the Customer indemnifies the Supplier for any losses, injuries, claims and costs which the Supplier may suffer as a result of, or in any way connected to the Customer's obligations set out herein.
- 6.11. This clause 6 shall survive termination of the Contract.

7. TERMINATION

- 7.1. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
 - a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 days of that party being notified in writing to do so;
 - b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

- 7.2. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 7.3. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract on seven days written notice to the Customer if events outside of its control mean that the Supplier determines at its sole discretion, acting reasonably, that it is unable to fulfil its obligations under the Contract.
- 7.4. Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 7.2(b) to clause 7.2(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

8. CONSEQUENCES OF TERMINATION

- 8.1. Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 8.2. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

9. GENERAL

- 9.1. **Accreditation.** Status of UKAS accreditation for the methods used is as online, which may be updated, varied or amended from time to time. A copy of the current Schedule of Accreditation may be obtained from the UKAS website or the quality section of www.biosearch.co.uk
- 9.2. **Force majeure.** For the purpose of this clause, **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:
 - 9.2.1. acts of God, flood, drought, earthquake or other natural disaster;
 - 9.2.2. epidemic or pandemic (including but limited to COVID-19);
 - 9.2.3. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - 9.2.4. nuclear, chemical or biological contamination or sonic boom;
 - 9.2.5. any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

- 9.2.6. collapse of buildings, fire, explosion or accident; and
 - 9.2.7. any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party);
 - 9.2.8. non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
 - 9.2.9. interruption or failure of utility service.
- 9.3. Provided it has complied with clause 9.2, if the Supplier is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event, the Supplier shall not be in breach of this Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 9.4. The Supplier shall:
- 9.4.1. as soon as reasonably practicable after the start of the Force Majeure Event but no later than seven (7) days from its start, notify the Customer in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract; and
 - 9.4.2. use reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 9.5. If the Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than two (2) weeks, the Supplier alone may terminate this Contract by giving two (2) weeks' written notice to the Customer.
- 9.6. **Assignment and other dealings.**
- a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all its rights and obligations under the Contract.
 - b) The Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.
- 9.7. **Confidentiality.**
- a) Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 9.7(b).
 - b) Each party may disclose the other party's confidential information:

- i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 9.7; and
 - ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
 - d) Confidentiality of all information relating to Sample details, analysis and results will be maintained in accordance with the relevant UKAS procedures.

9.8. **Entire agreement.**

- a) The Contract and documents referred to herein, including for avoidance of doubt, the Specification constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- b) Each party acknowledges that in entering into the Contract it does not rely on and 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.
- c) Nothing in this clause shall limit or exclude any liability for fraud.

9.9. **Variation.** Except as set out in these Conditions, no variation of the Contract or these Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

9.10. **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

9.11. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

- d) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

9.12. **Third party rights.**

- a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

9.13. **Sub-contracted tests.** The Supplier shall notify the Customer in the event of any of the Services being subcontracted to a third party. The Supplier will endeavour not to subcontract any Services for which accreditation is held. In exceptional circumstances, accredited tests may be subcontracted to an accredited UKAS laboratory, subject to the conditions stipulated in ISO 17025: 2005. Other Services which are subcontracted will be conducted (where possible) by UKAS (or equivalent) accredited laboratories. Results of any subcontracted analysis are not included in the Supplier's Schedule of Accreditation and will be clearly identified on test reports, or in certain circumstances, reported separately.

9.14. **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the laws applicable in Northern Ireland.

9.15. **Jurisdiction.** Each party irrevocably agrees that the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.