

These are the Terms and Conditions by which Chemical Analysis Pty Ltd will supply Services to The Client

Definitions:

- “The Supplier” means Chemical Analysis Pty Ltd, 110 Merrindale Drive, Croydon, Victoria 3136
- “The Client” means the person or organization providing the requesting services of the Supplier.
- “Services” means analytical reports, certificates of analysis, other written communication (including email) and verbal communication.

1. The Supplier will perform the Services:

- 1.1 In accordance with the written analysis request form (FRM002, current revision) supplied by client (and agreed to by the Supplier). This may be delivered by post, courier, facsimile or e-mail and authorized by The Client by a dated signature on the analysis request form. The date of commencement shall be taken as the date on which the analysis request form and all required samples and materials are received by the Supplier;
- 1.2 In addition, the Supplier and the Client may have agreed in writing as to the exact nature and methodology of testing and the general nature of the scientific approach (which may include a GMP Customer Service Agreement) to be undertaken in performing the services if specified on the analysis request form;
- 1.3 The documents relating to the matters referred to in clauses 1.1 and 1.2 constitute part of the terms and conditions of the Service Provision;
- 1.4 Any inconsistency between the terms and conditions of clause 1.1 and the terms and conditions of clause 1.2, then the terms and conditions of 1.1 shall prevail.

2. These Terms and Conditions, and documents referred to in clause 1.1 and clause 1.2 constitute:

- 2.1 The whole of the agreement between the parties and supersedes all prior promises, representations, warranties or undertakings given or made by either party to the other prior to the execution of these Services;
- 2.2 The Client has not relied on any advice, promise or representation made by The Supplier unless it is expressly contained in the documents referred to in clause 1.1 and 1.2;
- 2.3 Each word, phrase, sentence, paragraph or clause of these Terms and Conditions is severable and if a Court determines that a provision is unenforceable, illegal or void, the Court may sever that provision which becomes inoperative and such severance will not affect the other provisions of these Service Conditions;
- 2.4 No waiver by either party of one breach of any obligation contained or implied in these Service Conditions will operate as a waiver for another breach of the same or any other obligations contained or implied in these Service Conditions.

3. The Client represents that it has disclosed to the Supplier all necessary and relevant information (whether of a scientific nature or not) which would reasonably assist Supplier or which would reasonably relevant to the Services to be performed by the Supplier.

4. Payment for services

- 4.1 The Client agrees to pay the Supplier a Service fee, from accepted quotation, as per agreed company specific pricing or as otherwise determined and invoiced. Payment is due 14 days from the date of invoice unless other credit terms are agreed by the Supplier.
- 4.2 If payment is not received within the time indicated on the invoice, the Supplier may charge a late payment fee of 2% per month or part thereof. Full payment will not be deemed until the late payment fee has also been paid.
- 4.3 The Supplier will discontinue performance if the Client fails to pay any sum due, or fails to perform under this or any other supplier agreement if, after 10 days written notice, the failure has not been cured.
- 4.4 The right to use the provided results will pass upon the receipt of full payment.
- 4.5 All payments made after the clients acceptance of quotation are not refundable in the event that the Client decides not to proceed with the project.
- 4.6 In the event that a service has being engaged with a Debt Collector to enforce recovery of outstanding monies, the cost of debt collection will be borne by the Client.

5. The Supplier warrants that it shall perform the Services to the best of its ability according to these Terms and Conditions, and use all reasonable skill, care and diligence as reasonably required to produce the relevant results which the Client seeks.

6. Despite the matters set out in clause 5 of these Terms and Conditions, it is acknowledged that the Client seeks to retain The Supplier to perform highly specialized and complex scientific tests. The Supplier has agreed to supply the Services subject to the following specific undertakings given by the Client to the Supplier, namely:

- 6.1 The Client recognizes that the Services relate to testing and reporting, and accordingly may involve subjective components of interpretation and analysis; and
- 6.2 The Services may result in the production of reports which are, on an objective scientific standard, either inaccurate, unreliable or misleading for reasons entirely beyond the control of the Supplier.

7. Limitation of Liability

- 7.1 Despite any other matter or warranty contained in these Terms and Conditions, the Supplier makes no express or implied warranties in relation to the quality or standard of supply of the Service and all such warranties and representations are hereby excluded. Whilst observing every reasonable standard and adopting acceptable methodologies and practices, the Supplier shall not be responsible to the Client for any loss or damage (including any loss of profits, opportunity, or goodwill, or any type of special, incidental, indirect, consequential, punitive, exemplary, or multiple damages) suffered by the Client as a consequence of a breach of contract, negligence, breach of statutory obligation or otherwise and all such causes of action are hereby excluded.

- 7.2 In addition, the Supplier has no responsibility of any nature whatsoever where the Client has failed to disclose relevant information or the Client contributes to or is responsible for (wholly or in part) any loss or damage suffered. There may be circumstances where warranties may not be excluded because of e.g. the Competition and Consumer Act 2010 or otherwise. In these circumstances the liability of the Supplier under any such legislation is limited to the re-supply of the services or the cost of re-supply.

- 7.3 In this clause “loss or damage” involves all liabilities, expense, losses, damage, fees and costs (including legal costs whether incurred by the Client or awarded against the Supplier in favour of the Client).

8. All notices to be given under these Terms and Conditions must be in writing, signed by the party or its solicitor and delivered by hand or sent by pre-paid registered or certified mail or by facsimile to the address appearing on these Terms and Conditions.

9. Intellectual Property and Confidential Information

- 9.1 All intellectual property in conjunction with the provision of Services will be the property of the Supplier. Unless otherwise specified, the Supplier grants to the Client a world-wide, non-exclusive, royalty-free licence to use the Supplier’s intellectual property to the extent that it is required for the purpose and benefit of the Client in relation to the Services.

- 9.2 Intellectual property here means all intellectual property and propriety rights (whether registered or not) owned by the Supplier prior to and after the performance of the Services, developed by the Supplier in performance of the Services, developed by the Supplier outside of parameters of the Services, and without limitation includes patents, patents applications, drawings, discoveries, methods, processes, inventions, improvements, technical data, formulae, database, know how, designs, brand names and other similar industrial and intellectual property rights.

- 9.3 The parties to these Terms and Conditions undertake to each other to keep all confidential information confidential during and after the term of the Service provision unless that information is already publicly available.

- 9.4 Confidential information means these Terms and Conditions and all other Service Conditions documents referred to in these conditions, and all relevant information supplied to the Supplier, and all reports and documents, papers and material supplied by the Supplier to the Client under these Terms and Conditions and all relevant information which by its nature is confidential to either the Supplier or the Client. Where a separate confidential agreement is signed in conjunction with the Services, that confidential agreement shall be read in conjunction with these Terms and Condition.

10. The Supplier and the Client acknowledge and agree that they will use their best endeavours to negotiate in good faith and settle any dispute or difference that may arise.

11. These Terms and Conditions will be governed by the law enforced in the State of Victoria, Australia, and the parties to this Agreement submit to the jurisdiction of the Courts in that State.

Chemical Analysis Terms & Conditions: Updated January 2018