

# GEO SITE & TESTING SERVICES LIMITED (GSTL) TERMS & CONDITIONS

## 1. GENERAL

In these Terms and Conditions 'the Company' means Geo Site and Testing Services Limited (GSTL); 'the Customer' means the person, firm or company at whose request Goods and/or Services are supplied by the Company; 'Acknowledgement of Order' means the Company's acknowledgement of order form for the sale of the Goods and/or the provision of the Services to the Customer, including any amendments or variations thereto by the Company; 'Contract' means the contract for the sale of the Goods and/or the provision of the Services subject to these Terms and Conditions; 'Goods' mean all goods or replacements therefor or parts thereof supplied to the Customer under the Contract; 'Services' means any services provided to the Customer under the Contract.

## 2. CONDITIONS

These Terms and Conditions comprise the only terms and conditions upon which the Company will do business with the Customer and shall prevail notwithstanding any printed or other terms and conditions contained in any order form, acceptance of quotation or other document preferred by Customer or otherwise brought to the Company's notice by the Customer. No other agreement, representation, promise, undertaking or understanding of any kind unless expressly accepted in writing by the Company shall alter, vary, supersede or operate as a waiver of these Terms and Conditions. The headings are for convenience only and shall not affect the construction or interpretation of these Terms and Conditions.

## 3. CONTRACT

The Customer's order to the Company is an offer to enter into a contract upon these Terms and Conditions. No Contract is formed until the Company accepts the Customer's order by sending to the Customer an Acknowledgement of Order. A quotation by the Company does not constitute an offer. Prices, specifications, despatch times or any other information concerning the Goods or Services contained in any quotation by the Company to the Customer are estimates only and are not binding on the Company.

## 4. PRICES

Due to the nature of this type of work, our estimate is necessarily in the form of a Schedule of Rates. Any estimated total cost given is provided for guidance only, is based upon assumed provisional quantities and cannot be assumed to be an accurate estimate. All quantities are remeasurable on completion and payment will be made on the basis of the actual quantities measured. This estimate is prepared on the assumption that our work will be carried out as one continuous operation with a single visit to site. Should more than one visit be required an additional payment will be required for re-mobilisation of plant and personnel in the sum set out against "mobilisation costs" under clause 11.2. This estimate is based upon the assumption that the work can be completed without interruption. If work is interrupted due to instructions given on the part of the client and/or the main contractor and or their servants or agents or for any reason outside the control of ourselves then any time incurred will be charged at the standing time rate quoted in our Schedule of Rates. and are exclusive of United Kingdom VAT and/or any other sales taxes from time to time in force at the rate ruling at the time of despatch. The Company reserves the right to vary the quoted price of Goods and or Services between the date of Contract and the date of delivery. The Company will inform the Customer of any variation to the price.

## 5. DESPATCH / DELIVERY

Whilst the Company shall endeavour to avoid delay, all testing despatch dates are best estimates only. The Company accepts no liability to the Customer for any loss or damage suffered by the Customer as a result of the Company's failure to comply with such despatch dates, however caused, nor shall such failure entitle the Customer to refuse to accept late despatch or to treat late despatch as a breach of Contract. Where Goods are ready for despatch, the Company may agree to postpone despatch at the request of the Customer provided that the Customer pays the full price of the Goods to the Company immediately. The Company may store the Goods at its own premises or elsewhere at the Customer's sole risk and all storage, insurance and transport costs in connection therewith shall be paid by the Customer. If the Company does not agree to postpone despatch, the Company may at its option treat the Contract as repudiated by the Customer in which event the Company shall (without prejudice to any other rights or remedies in respect of such repudiation) be entitled to sell the Goods and to retain the proceeds of the sale. The Company shall not be liable to the Customer for any loss or damage caused by any delay in performing or failing to perform any of the Company's obligations hereunder due to any cause or event whatsoever beyond the Company's control, including without limitation acts of God, legislation, war, civil commotion, strike, lock-out, industrial disputes (whether involving the Company's employees or those of any other person), difficulties in obtaining workmen or materials, breakdown of machinery, failure of power supply, fire or flood. Should any such event occur the Company may at its option by notice in writing to the Customer cancel or suspend this Contract in whole or in part without any liability to the Customer and without prejudice to the Company's rights to receive payment of the price of all Goods and Services previously delivered to the Customer. The Company may at its option deliver Goods by instalments. Each instalment will be considered a separate contract on and subject to these Terms and Conditions and payment will be made by the Customer accordingly. Failure by the Customer to accept or pay for any instalment may be treated by the Company as a repudiation of the Contract by the Customer.

## 6. LOSS OR DAMAGE IN TRANSIT

The Company shall not be liable for any loss of or damage to Goods in transit unless

(i) the Company undertakes to deliver Goods to a place other than the Company's premises and (ii) damage in transit is notified in writing to both the Company and the Company's carriers within 3 days of receipt of Goods by the Customer or non delivery notification is made both to the Company and to the Company's carriers within 10 days of the despatch date shown on the Company's advice note.

## 7. INSPECTION

(a) The Customer shall inspect the Goods immediately upon receipt and shall, subject to paragraph (b) below, be deemed to have accepted the Goods as delivered. (b) The Company shall not be liable for defects or shortages in the Goods discoverable on reasonable inspection unless the Customer notifies the Company within 7 days of receipt of any alleged defect or nonconformity with the Contract and at the Company's option permits the Company to inspect such defective Goods or returns the defective Goods to the Company at the Customer's expense. (c) The Company shall make good any shortages notified under paragraph (b) above as soon as reasonably practicable but shall not be liable for any other loss whatsoever arising from such shortage. (d) The Company's liability for Goods lost or damaged in transit shall in all circumstances be limited to (at the Company's sole option) the repair or replacement of or crediting the Customer with the invoice value of the Goods in question.

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## **8. PAYMENT**

All prices are strictly net and unless otherwise previously agreed in writing, payment of accounts shall be in pounds sterling and shall be paid in full by the Customer to the Company within 30 days of the date of invoice unless otherwise agreed in writing. Time for making payment shall be of the essence of the Contract. Without prejudice to any other rights of the Company, the Company reserves the right to charge interest at 2% above the base lending rate of Lloyds Bank plc from time to time on all overdue accounts accruing on a day to day basis from the date on which the payment fell due until the Company has received payment in full. In addition, if any payment from the Customer to the Company under this or any other contract is overdue, the Company may at its sole option and without prejudice to any other right or remedy which it may have, suspend delivery of any undelivered Goods and/or terminate the Customer's rights under Condition 11(c) below until payment is received in full and if such payment shall remain in arrears for more than 14 days the Company may at its option cancel this Contract or any other contract with the Customer in whole or in part and enter the Customer's premises without notice for the purposes of repossessing the Goods not paid for and without incurring any liability to the Customer whatsoever.

## **9. SPECIFICATIONS**

The Goods are supplied to the Customer strictly on the terms that the Customer has satisfied itself of their suitability for its purposes. All drawings, photographs, illustrations, performance data, dimensions, weights and other technical information, specifications and particulars of the Goods or Services are published and supplied by the Company to give a reasonable idea of the Goods and/or Services and do not constitute a description of the Goods and/or Services nor shall be taken as representations by the Company nor be treated as binding or as forming part of the contract. It is the responsibility of the Customer to ensure the accuracy of all such material and information and the Company accepts no liability in respect thereof to the Customer. All such material is copyright and may not be disclosed to third parties without the Company's consent in writing. Where any order accepted by the Company is subject to the approval by the Customer of drawings, prototypes or any other condition, such approval shall not be unreasonably withheld or delayed.

## **10. RETENTION OF TITLE**

(a) The Company shall retain legal and beneficial title to the Goods until it has received payment in full of all sums owed on any account by the Customer, whether arising under this or any other contract. (b) The Customer shall, at its own risk and expense, keep all Goods safe and in good condition and shall store the Goods separately in such a way that they can be identified as the Company's property and shall insure all Goods from the date of delivery for all risks at their full replacement value. (c) The Customer may use or sell the Goods or any of them in the ordinary course of its business on the basis that any proceeds of sale shall be held in trust by the Customer for the Company absolutely. (d) The Customer's rights under paragraph (c) above shall terminate immediately on notice from the Company or automatically on the presentation of a petition for the Customer's winding up or for the appointment of an administrator, receiver or administrative receiver over its undertaking or any of its assets or if it goes into voluntary liquidation (other than for the purposes of a bona fide reconstruction or amalgamation of a solvent company) or if it ceases to carry on business or appears unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986) or upon the occurrence of any equivalent event under the laws of any other relevant jurisdiction. In such event the Company shall be entitled, without prejudice to any other remedies it may have, at its sole option to enter the Customer's premises for the purposes of repossessing the Goods and the Customer hereby irrevocably authorises the Company to enter the Customer's premises for that purpose and/or to require the Customer not to use or sell the Goods or any of them until the Customer has paid the Company in full all sums owed on account by the Customer and/or to cancel all or any part of any order for Goods placed by the Customer and not yet delivered (whether or not accepted and whether or not under the Contract or any other contract).

## **11. LIMITS OF LIABILITY**

(a) The Company's liability under conditions 7 and 10 above shall be accepted by the Customer in lieu of any warranty or condition, whether expressed or implied by law, as to the quality or fitness for any particular purpose of the Goods and, save as provided in these Terms and Conditions, the Company shall have no liability to the Customer (whether in contract tort or otherwise) for any defects in the Goods, materials supplied or workmanship performed by or on behalf of the Company or for any damage or loss, death or injury resulting from such defects and the Customer shall indemnify the Company against any claims in respect thereof. (b) The Company shall not be liable, whether by way of indemnity or by reason of breach of contract, tort or breach of statutory duty or in any other manner for consequential, economic, special or indirect loss of whatsoever nature, special damages, loss of use (whether complete or partial) of the Goods, loss of profit or loss of any contract suffered by the Customer. (c) Nothing in this condition 12 shall be construed as limiting or excluding the Company's liability under Part 1 of the Consumer Protection Act 1987 or for death (d) or personal injury resulting from the Company's negligence (as defined in Section 1 of the Unfair Contract Terms Act 1977). (e) The Customer shall indemnify and keep the Company fully indemnified against all actions, claims, costs, damages, demands and expenses or other loss arising out of a defect in the Goods (including without limitation liabilities incurred under the Consumer Protection Act 1987) to the extent occasioned or contributed to by any act or omission of the Customer, its servants, agents or persons under its control. (f) The Company's total liability for all claims arising out of this Contract howsoever arising shall not exceed the invoice price of the Goods and/or Services in question.

## **12. CANCELLATION**

The Contract is not cancellable by the Customer without the prior written consent of the Company. The Company will not consent to cancellation of orders for Goods made to the Customer's specific requirements.

## **13. INFRINGEMENT**

The Company makes no warranty or representation whatsoever that the use of sale of the Goods will not infringe the intellectual property rights of any third party and accepts no liability in this respect.

## **14. ASSIGNMENT**

The Contract shall not be assigned in whole or in part by either party without the prior written consent of the other party, except that the Company may assign its rights, liabilities and obligations to an associated company without prior written notice.

## **15. WAIVER**

The Company's failure to insist upon the strict performance of any of the Customer's obligations under the Contract or order shall not be construed as a waiver of its rights in respect thereof and shall not affect the Company's right thereafter to require such strict performance of such obligation.

## **16. COSTS OF ENFORCEMENT**

The Customer shall pay to the Company all expenses, including legal costs on a full indemnity basis, incurred by or on behalf of the Company in enforcing the provisions of the Contract.

## **17. APPLICABLE LAW**

The Contract to which these Terms and Conditions relate shall in all respects be governed by and construed in accordance with the laws of England and Wales the Customer agrees to submit to the exclusive jurisdiction of the English and Welsh courts