

- 1.** Unless otherwise specifically agreed in writing Cotecna SA and its affiliates (hereinafter called "the Company") undertakes services in accordance with these Terms and Conditions of Business (hereinafter called "Terms and Conditions") and accordingly all offers or tenders of service are made subject to these Terms and Conditions. All resulting contracts, agreements or other arrangements will in all respects be governed by these Terms and Conditions, except only to the extent that the law of the place where such arrangements or contracts are made or carried out shall preclude any of these Terms and Conditions and in such case such local law shall prevail wherever, but only to the extent that, it is at variance with these Terms and Conditions.
- 2.** The Company is an enterprise engaged in the trade of inspection and testing. As such, it:
  - 2.1** carries out such standard services as are referred to in article 6 of these Terms and Conditions.
  - 2.2** renders advisory and special services as may be agreed by the Company and as referred to in article 7 of these Terms and Conditions.
  - 2.3** issues reports and/or certificates as referred to in article 8 of these Terms and Conditions.
- 3.** The Company acts on behalf of the persons or bodies from whom the instructions to act have originated (hereinafter called "the Principal"). No other party is entitled to give instructions, particularly on the scope of inspection or delivery of report or certificate, unless so authorised by the Principal and agreed by the Company. The Company will however be deemed irrevocably authorised to deliver at its discretion the report or the certificate to a third party if following instructions by the Principal a promise in this sense had been given to this third party or such a promise implicitly follows from circumstances, trade custom, usage or practice.
- 4.** The Company will provide services in accordance with:
  - 4.1** the Principal's specific instructions as confirmed by the Company;
  - 4.2** the terms of the Company's Standard Order Form and/or Standard Specification Sheet if used;
  - 4.3** any relevant trade custom, usage or practice;
  - 4.4** such methods as the Company shall consider appropriate on technical, operational and/or financial grounds.
- 5.**
  - 5.1** All enquiries and orders for the supply of services must be accompanied by sufficient information specifications and instructions to enable the Company to evaluate and/or perform the services required.
  - 5.2** Documents reflecting engagements contracted between the Principal and third parties, or third parties' documents, such as copies of contracts of sale, letters of credit, bills of lading, etc., are (if received by the Company) considered to be for information only, without extending or restricting the mission or obligations accepted by the Company.
- 6.** The Company's standard services may include all or any of the following:
  - 6.1** quantitative and/or qualitative inspections;
  - 6.2** inspection of goods, plants, equipments, packing, tanks, containers and means of transport;
  - 6.3** inspection of loading or discharging;
  - 6.4** sampling;
  - 6.5** laboratory analysis or other testing;
  - 6.6** surveys and audits.
- 7.** Special services where the same exceed the scope of standard services as referred to in article 6 of these Terms and Conditions will only be undertaken by the Company by particular arrangement and which may be subject to other specific and overriding terms and conditions.

Such special services are illustratively but not exhaustively:

  - 7.1** qualitative and/or quantitative guarantees;
  - 7.2** tank calibration, meter calibration and meter proving;
  - 7.3** supply of technicians and other personnel;
  - 7.4** pre-shipment inspection under government mandated import or customs schemes;
  - 7.5** supervision of complete industrial project schemes, including engineering review, expediting and progress reporting;
  - 7.6** advisory services;
  - 7.7** collateral and warehouse management.
- 8.**
  - 8.1** Subject to the Principal's instructions as accepted by the Company, the Company will issue reports and certificates of inspection which reflect statements of opinion made with due care within the limitation of instructions received but the Company is under no obligation to refer to or report upon any facts or circumstances which are outside the specific instructions received.
  - 8.2** Reports or certificates issued following testing or analysis of samples contain the Company's specific opinion on those samples only but do not express any opinion upon the bulk from which the samples were drawn. If an opinion on the bulk is requested special arrangements must be made in advance with the Company for the inspection and sampling of the bulk.
- 9.** The Principal will:
  - 9.1** ensure that instructions to the Company and sufficient information are given in due time to enable the required services to be performed effectively;
  - 9.2** procure all necessary access for the Company's representatives to enable the required services to be performed effectively;
  - 9.3** supply, if required, any special equipment and personnel necessary for the performance of the required services;
  - 9.4** ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of services and will not rely, in this respect, on the Company's advice whether requested or not;
  - 9.5** take all necessary steps to eliminate or remedy any obstruction to or interruptions in the performance of the required services;
- 9.6** inform the Company in advance of any known hazards or dangers, actual or potential, associated with any order or samples or testing including, for example, presence or risk of radiation, toxic or noxious or explosive elements or materials, environmental pollution or poisons;
- 9.7** fully exercise all its rights and discharge all its liabilities under any related contract whether or not a report or certificate has been issued by the Company failing which the Company shall be under no obligation to the Principal.
- 10.** The Company shall be entitled at its discretion to delegate the performance of the whole or any part of the services contracted for with the Principal to any agent or subcontractor.
- 11.** If the requirements of the Principal necessitate the analysis of samples by the Principal's or by any third party's laboratory the Company will pass on the result of the analysis but without responsibility for its accuracy. Likewise where the Company is only able to witness an analysis by the Principal's or by any third party's laboratory the Company will provide confirmation that the correct sample has been analysed but will not otherwise be responsible for the accuracy of any analysis or results.
- 12.**
  - 12.1** The Company undertakes to exercise due care and skill in the performance of its services and accepts responsibility only where such skill and care is not exercised.
  - 12.2** The liability of the Company in respect of any claims for loss, damage or expense of whatsoever nature and howsoever arising in respect of any breach of contract and/or any failure to exercise due skill and care by the Company shall in no circumstances exceed a total aggregate sum equal to ten (10) times the amount of the fee or commission payable in respect of the specific service required under the particular contract with the Company which gives rise to such claims and the total amount of liability shall in no circumstances exceed USD 25,000 (US Dollars twenty five thousand). However the Company shall have no liability in respect of any claims for indirect or consequential loss including loss of profit and/or loss of future business and/or loss of production and/or cancellation of contracts entered into by the Principal. Where the fee or commission payable relates to a number of services and a claim arises in respect of one of those services the fee or commission shall be apportioned for the purposes of this paragraph by reference to the estimated time involved in the performance of each service.
- 13.** The Principal shall guarantee, hold harmless and indemnify the Company and its officers, employees, agents or subcontractors against all claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance of any services to the extent that the aggregate of any such claims relating to any one service exceed the limit mentioned in article 12 of these Terms and Conditions.
- 14.** In the event that any unforeseen problems or expenditure arise in the course of carrying out any of the contracted services the Company shall be entitled to make additional charges to cover additional time and cost necessarily incurred to complete the service.
- 15.**
  - 15.1** The Principal will punctually pay not later than thirty (30) days after the relevant invoice date or within such other period as may have been agreed in writing by the Company all proper charges rendered by the Company, failing which interest will become due at the rate of LIBOR 3 months + 2 per cent per annum from the date of invoice until payment.
  - 15.2** The Principal shall not be entitled to retain or defer payment of any sums due to the Company on account of any dispute, cross claim or set off which it may allege against the Company.
  - 15.3** The Principal shall also pay all of the Company's costs of collecting any amounts owed to the Company, including attorney's fees and court costs.
- 16.** In the event of the Company being prevented by reason of any cause whatsoever outside the Company's control from performing or completing any service for which an order has been given or an agreement made, the Principal will pay to the Company:
  - 16.1** the amount of all abortive expenditure actually made or incurred,
  - 16.2** a proportion of the agreed fee or commission equal to the proportion (if any) of the service actually carried out, and the Company shall be relieved of all responsibility whatsoever for the partial or total non-performance of the required service.
- 17.** The Company shall be discharged from all liability to the Principal for all claims for loss, damage or expense unless suit is brought within twelve (12) months after the date of the performance by the Company of the service which gives rise to the claim providing that the Principal inform the Company not later than seven (7) calendar days after the discovery of this event.
- 18.** The Company is neither an insurer nor a guarantor and disclaims all liability in such capacity. Principals seeking a guarantee against loss or damage should obtain appropriate insurance.
- 19.** No alteration, amendment or waiver of any of these Terms and Conditions shall have any effect unless made in writing and signed by an officer of the Company.
- 20.** These Terms and Conditions and any dispute or claim of whatsoever nature arising between the Principal and the Company shall abide by, be governed and be interpreted by Swiss Law (exclusive of any rules with respect to conflicts of law). Any dispute, controversy or claim arising out of or in relation to these Terms and Conditions, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers of Commerce in force on the date when the Notice of Arbitration is submitted in accordance with these Rules. The number of arbitrator shall be one (1). The seat of the arbitration shall be Geneva, Switzerland. The arbitral proceedings shall be conducted in English.