

	<b>LABORATORY QUALITY MANAGEMENT SYSTEM</b>					
	<b>TERMS AND CONDITIONS CONTRACT</b>					
DOC: FOR-CONTR-10	AUTHOR: QA MANAGER	REVISED BY: QUALITY CONTROLLER	APPROVED: LAB LEAD	EFF. DATE: 06 JUL 2022	REV: 10	PAGE 1 OF 2

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These Terms and Conditions may only be varied by a written agreement signed between the parties and shall apply to all contracts for supply of services and goods by the Company to the Customer to the exclusion of all other Terms and conditions including any Terms and Conditions which the Customer may purport to apply under any purchase order, confirmation of order or similar document.

**The Service Agreement**

The Company agrees to provide service to the Customer in accordance herewith.

In carrying out the service, the Company undertakes to the Customer that it shall use its reasonable endeavours to undertake the service in accordance with trade practice and within the time period agreed between the parties and at all times exercising reasonable skill and care. The Customer will in no way compel the Company to work outside the agreed time period.

Nothing contained herein implies the Company will provide service of this type for the Customer exclusively.

Other testing activities offered by the Company will be accepted once signed by the Customer (FOR-QFORM)

**Duration**

The service will be rendered as agreed between the parties and the continuation of the Services will be for the extent of the duration of the full yearly season of the Customer.

**Orders**

An order that is given to the Company by a Customer for purchase of any Goods or Services, may be verbally or in writing

Each order becomes a separate contract between the Company and the Customer, which is regulated by these terms and conditions, and is binding on the party with regards to the type, quantity, and price of the Goods or Services

Acceptance of an order is solely the prerogative of the Company

**Price**

All quotations which are given by the Company are subject to the availability of Goods at the time of the order and are:

A. valid until (i) a period of 7 days has expired; or (ii) the effective date of the new price list, whichever one comes first.

B. based on the current currency (of the country wherein the Company is situated) on the day the quotations were handed out and no not include value added tax.

Notwithstanding the price on the current quotation, the purchase price regarding the Goods and Services, will be determined by the Company.

**Payment of Goods and Services**

A. Payment of Goods and Services are due and payable within 30 days from the date of the account statement if the Customer has an approved credit facility.

B. Except if the Customer has a credit facility, payment for Goods and Services will become due upon receipt of documentation

C. There will be no retention of the contract price whatsoever

In such an instance where the Company grants credit to the Customer in writing, the Company may from time to time vary or repeal the credit limit according to the Company's prerogative

All sums due from the Customer to the Company which are not paid on the due date shall bear compounded interest at the rate of 24%

**Delivery**

Delivery date(s) for Goods and date of completion for Services which is quoted is merely an estimate and does not bind the Company.

A delivery note or freight letter signed by the Customer (or a third party who is employed to transport Goods), will be regarded as *prima facie* evidence of delivery of Goods and or completion of rendering of Services which is indicated on it.

When delivery of Goods take place, the Customer must inspect the Goods to ensure that the type and quantity are the same as is indicated the provided documentation.

Before accepting delivery of Goods and Services the Customer must inform the Company, in writing, if the Customer becomes aware of any financial difficulties or changes to the Customer's business and operational status.

**Termination of Service Agreement**

These terms and conditions may be terminated by the Company on giving 15 days written notice to the Customer

Other testing activities offered by the Company may be terminated by the Company if the samples submitted do not meet the Company's specific requirements.

Either party may terminate these Terms and Conditions immediately by written notice given to the other where:

A. The other party commits a material breach of these Terms and Conditions; or

B. The other party has continued in any breach of these Terms and Conditions for more than 14 days after being warned in writing of such breach.

If the Customer does not make payments in accordance with the clause above, the Company reserves the right to cease the rendering of the Services and if it thinks fit, to terminate these Terms and Conditions immediately by written notice given to the Customer.

**Effect of Termination of Service Agreement**

Termination of these Terms and Conditions shall not affect any obligation or liability of any party which has accrued at the date of termination.

The Company may, during the period of the Terms and Conditions and upon termination of same, set off any debt owed by the Customer to the Company, or the amount of loss and/or damage the Company has reasonably assessed as resulting from the termination of the terms and conditions, any sums/amount otherwise due to the Customer.

**Assignment and Sub-Contracting**

The Customer shall not assign or sub-contract these Terms and Conditions or any part of it without the prior consent of the Company in writing.

The Company may at any time, on reasonable notice in writing to the Customer, transfer or assign all or any right and/ or obligations under these Terms and Conditions

**Waiver, Variation and Representation.**

No delay by the Company in enforcing or expressing any right, either arising out of these Terms and Conditions or any right in respect of any breach hereof by the Customer, shall constitute a waiver of such right.

No waiver by the Company of any breach of the Customers obligations shall constitute a waiver of any other prior or subsequent breach.

Any variation of any provision of these Terms and Conditions must be affected in writing and issued by the Company. No purported variation by any other means shall bind the Company.

**Intellectual Property**

The Customer admits that the Company is the owner, or license holder, of all intellectual property of the Goods and Services, including but not limited to patents, designs, copy rights and trademarks (intellectual property). The Customer acknowledges that he/she has no claim to ownership of intellectual property. The Customer may not at any time during or after the cancellation of this Terms, dispute the validity or enforceability of the intellectual property or do anything which disputes those rights or in any way infringe or meant to infringe on those rights; and may not give advice to any other person to do as such.

The Customer may not remove or play with the trademark, including the logos and sales motto which are found on the Goods or packaging.

The Customer may not pretend that he/she has any right whatsoever to the intellectual property. The Customer may only use the intellectual property in such a way as is authorized by the Company and any such use will be to the advantage of the Company.

**Impartiality**

The Company recognizes that business relationships prosper when both parties work towards a common goal. The Company is therefore committed to impartiality by ensuring that objective evidence of impartiality is obtained. The Company is responsible for the impartiality of its laboratory activities and shall not allow commercial, financial, or other pressures to compromise impartiality. The Company ensures that laboratory activities are undertaken impartially, structured and managed to safeguard impartiality. The Customer agrees to the Company's impartiality statements above and in doing so, the Customer shall declare to the Company before commencement of work any potential or real conflicts of interest

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for the Company to mitigate or eliminate any form of conflicts of interest to ensure all laboratory activities are conducted without bias. This may include business or personal relationships with the Customer.

**Confidential Information**

Subject to clauses above the Customer shall not without the Company's written consent disclose to any person other than the Company or use otherwise than for the purpose of carrying out Services and which include:

A. The nature of the Service or the results obtained; or

B. Any secret or confidential information concerning the Services relating to any products or operations of the Company may not be disclosed for any reason whatsoever.

The Company shall not without the Customer's written consent, in advance disclose to any person other than the Customer any secret or confidential information obtained before or after the date of the rendering of Services. Except for information that the Customer makes publicly available, or when agreed between the Company and the Customer, all other information is considered proprietary information and shall be regarded as confidential.

The Customer hereby agrees that the Company may be subjected to Audits periodically and the Customer hereby agrees that the Company may disclose the Customer's test report upon request of the Auditor, SANAS Assessor(s) and/or Team Leader who is also subjected to the Company's Confidentiality agreement.

The Customer shall indemnify and keep indemnified on full and unqualified basis the Company against any and all actions, claims, demands, costs, charges and/or expenses arising out of any loss or damage incurred by the reason of any infringement by the Customer of the clause above

The Customer acknowledges that the Company may be subjected to legal duties which may require the release of information under the laws of the Republic of South Africa and that the Company may be under an obligation to provide information on request. Such information may include matters relating to, arising out of these Terms and Conditions. The Customer concerned shall, unless prohibited by law, be notified of the information provided.

The Customer hereby agrees that the Company may hold the Customer's Credit information data longer than necessary which is needed for performance with regards to its agreements with the Customer. As well as after such an agreement is cancelled as is regulated by these terms and conditions.

The Customer hereby agrees that the Company may disclose the Customer's credit information to credit agencies, and that no further specific consent is needed in order to disclose any such data to credit agencies. The Customer agrees that the Company will not be liable if the Company discloses any such credit data to credit agencies in good faith.

The Customer hereby agrees that his/her consumer credit information may be send to the Nasional Register of Credit Agreements or any credit bureau or other third party which is allowed or required according to relevant legislation, including any third party to which the Company has ceded and transferred its rights and obligations according to this agreement. Consumer credit information includes, but is not limited to, information regarding the application, information regarding these terms, information regarding the Customer's personal information, as well as information regarding non-compliance.

The Customer must keep any information regarding the Company and its dealings or business affairs which he/she obtained or is able to obtain, confidential. Except for information which;

A. which was obtained by any means, except through the actions or failure of the Customer, became commonly known; or

B. which prior to the disclosure was in the possession of the Customer except as a result of the infringement by the Customer of any confidentiality obligation which is according to these terms owed to the Company; or

C. which was disclosed to the Customer by a person that obtained the information who was not under a confidentiality obligation; or

D. which was independently obtained by the Customer as a result of work done by a person to which such information was not disclosed. The Customer may not use or disclose such information, except with the prior written consent of the Company or in an agreement with an order of court of a court with a competent jurisdiction, or an order to comply with an act or government regulation by which any of the relevant parties are bound, of if it is legally and in writing requested by a government authority

**Prohibition on Resale**

The Customer may not, in any circumstances, sell any Goods or Services of which ownership has not been transferred to a third party without the prior obtained written consent of the Company.

**Complying with legislation**

The Customer, its employees, subcontractors and affiliates must comply with legislation, regulations, instructions, warnings and standards with regards to Goods and Services, including but not limited to the loading, storage, handling and usage thereof

The Customer accepts the risk, liability or both by the Customer because the Customer's rights and remedies against the Company may be excluded or limited, if he/she does not comply with the obligations that was listed. This means that the Customer will be liable for his/her own loss in these circumstances.

Where the Customer requires the Company to render any Services, the Customer must make sure that there are adequate and safe facilities at the premises.

**Warranties, Liabilities and Indemnities.**

The Customer shall provide the Company, in a timely manner, with all such information and material as are necessary for the Company to carry out the Services herein and the Customer warrants that all information provided by it or on its behalf to the Company will be accurate.

The Customer warrants that it shall not, without the Company's prior written consent, for five years following the completion or the Services solicit or entice away from the Company or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Company in the provision of the Services.

**Risk**

Risk in any materials or items of equipment supplied by the Company to the Customer, shall remain with the Customer at all times. All equipment and other accessories (except those owned and provided by the Customer) and all material obtained by the Company and/or used for the purposes of its Services shall remain the property of the Company, until the complete payment of Goods has taken place by Customer to the Company, including interest thereon if applicable.

The risk of damage, destruction or theft of Goods will be placed on the Customer according to CIP (Incoterms 200) place of destination. Which means that the risk will be transferred to the Customer when the Goods are delivered by the third party who is employed to transport Goods.

**Indemnity**

The Customer shall indemnify and keep indemnified on a full and unqualified basis the Company against any and all actions, claims, demands, costs, charges and/or expenses arising out of any loss or damage incurred by the reason of any infringement or alleged infringement by the Customer of any intellectual property right in relation to the Services.

In the event of any breach or breaches of these Terms and Conditions by the Company, the Company shall not be liable to the Customer in respect of:

A. Any loss of profit, business, revenue, goodwill or anticipated savings; or

B. Any indirect or consequential loss or damage.

If the Company's performance of its obligations under these Terms and Conditions is prevented or delayed by any act or omission of the Customer, its agents, sub-contractors or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

**Force Majeure**

The Company shall not be liable for any failure to preform any of its obligations in terns hereof if and to the extent that the failure outside their control, including but not limited to, the inability to gain power, material, supply, machine breakdown, war, civil unrest, riots, sabotage, emergencies, strikes, lock-outs, trade disputes, interruptions of transport, government restriction or action, delay in delivery by the Company's supplier, labour disputes, forces of nature, explosions, fires, floods, droughts and actions of authority (whether legal or legal) or any other cause outside the control of the Company.

**Severability**

If any part of these Terms and Conditions is unenforceable, such unenforceability shall not affect the enforceability of the Terms and Conditions.