

## General Terms & Conditions of Sale

### 1. Area of Application

1.1 All Orders accepted by Eurofins Food Testing UK Limited or any of its affiliates, including Eurofins Water Hygiene Testing UK Limited, Eurofins Food Safety Solutions Limited, (collectively, "ES") will be governed by these General Terms and Conditions of Sale (including, for certification services, the certification services annex attached) (the "Terms and Conditions"), including orders placed by telephone which have not been confirmed in writing and orders made by delivery of samples. A contract with these Terms and Conditions comes into being when an order that has been placed with ES is accepted by ES. An order placed with ES is considered as accepted by ES when (a) ES proceeds to fulfil that order, without need for any written confirmation from ES or (b) ES accepts the order in writing.

1.2 These Terms and Conditions supersede and replace all prior verbal or written price quotations and agreements between the parties and, unless specifically indicated otherwise therein, take precedence over all conflicting or inconsistent provisions of subsequent written agreements between the parties. No officer (other than the Managing Director of ES), employee, agent or subcontractor of ES has the authority to alter or waive any of these Terms and Conditions or to make any representation which conflicts with or purports to override any of these Terms and Conditions; and no such alteration, waiver or representation shall be binding upon ES, unless it is in writing and signed by the Managing Director of ES.

### 2. Placement of Order

2.1 A customer's order will be valid only if it is sent by mail or fax or other electronic message on letterhead of the customer or by using ES-approved sample dispatch sheets or electronic order forms and the commercial aspects of the order which are not specifically set out in these Terms and Conditions (including price, estimated turnaround times and delivery date) must be agreed at the time of the order. The customer must confirm in writing orders given by telephone immediately after they are made and, in any event, will be deemed to have placed an order if the customer sends samples to ES quoting the customer reference given to it by ES. ES is not obligated to start any analytical work unless the order is clear and it has been provided all required information.

2.2 Unless specifically accepted in writing and signed by the Managing Director of ES, any terms proposed or submitted by a customer at any time (including, but not limited to, terms or provisions in the customer's purchase order, instructions, or other document) which differ from these Terms and Conditions are rejected as a material alteration of these Terms and Conditions and shall be of no force or effect. Furthermore, special terms or conditions of prior orders which have been agreed by ES in accordance with these Terms and Conditions, including special pricing, will not automatically apply to subsequent orders. Each order accepted by ES will be treated as a separate contract between ES and the customer.

2.3 ES is entitled to charge management and administrative fees of up to £30.00 in connection with the request for additional services to an existing order. A request for additional services on samples that have entered the laboratory will be treated as a new order and may postpone estimated delivery date accordingly.

2.4 Any logistic service off-site of the laboratory must be paid in full, unless it has been cancelled or modified by the customer at least forty-eight hours (48) in advance for collection services, ninety-six (96) hours in advance for sampling services and one (1) week in advance for auditing services. Any analysis service must be paid in full as set out in clause 3, unless it has been cancelled or modified by the customer before the collection of the samples.

2.5 A right to payment will also exist if the customer does not have a stated right to cancel the contract, but the contract (or other laws) entitles ES to continue fulfilling the contract and demand payment from the customer under the terms of the contract in the event the customer attempts to terminate the contract.

### 3. Price and Terms of Payment

3.1 If the acknowledgment of an order does not state otherwise, ES' prices apply "ex works", excluding packaging, which is charged separately. Any additional cost or disbursement (e.g. incurred by ES in connection with the order) must be paid by the customer.

3.2. Prices are exclusive of all applicable taxes (including sales, use and VAT) and are based on tariffs in force at the day of the remittance of the offer to the customer. Applicable taxes are those in force at the date of invoicing.

3.3 The customer must provide a purchase order or other information necessary for ES to invoice for payment. Unless specifically agreed otherwise by ES in its acceptance of an order, services may be invoiced when provided (or on an interim basis where the customer delays planned progress on the provision of services) and payment of all invoices is

due strictly within 30 days of the invoice date. Any dispute about invoices must be raised in writing within 30 days of the invoice date. The challenge of an analytical result will not entitle a customer to defer payment. Any invoice which remains outstanding after due date, may be additionally charged with an administration fee of £30.00 in respect of ES' costs in dealing with such outstanding payment, and also may carry interest at the rate of four percent (4%) per month or the maximum interest rate permitted by applicable law, whichever is lower.

3.4 Invoices are subject to a minimum invoice charge of £220.00 excluding VAT or other applicable taxes. ES has the right to charge an administrative fee of up to £30.00 to re-issue an invoice.

3.5 The payment method is cheque, bank transfer or direct debit. Any other method of payment must receive prior agreement from ES. The customer undertakes to provide bank account details where relevant.

3.6 ES is entitled to require payment of up to 100% of the quoted order price as a condition of acceptance.

### 4. Duties of Customer in Delivering Samples or Materials

4.1 The customer shall provide a unique purchase order, reference or authorisation with sufficient detail to allow ES to identify each sample or service (if applicable) and ES shall be entitled in good faith to rely upon the same. The samples or materials must be in a condition that makes the preparation of reports/analyses or the production of ordered products possible without difficulty. ES is entitled to conduct an initial examination of the samples or materials to check their condition before processing the samples, drawing up a report or using them in production. The customer shall bear the costs of this initial examination, if the samples or materials do not comply with the requirements described in this clause 4.1. If the result of the initial examination is that an analysis or production is impossible or is possible only under more difficult conditions than originally anticipated – for example, because the samples or materials have been interspersed with foreign materials or substances that were not reported by the customer or are degraded – ES shall be entitled to terminate or interrupt the order and the customer shall bear costs incurred by ES to that point.

4.2 The customer must ensure, and hereby warrants, that no sample poses any danger, including on its site, during transportation, in the laboratory or otherwise to ES premises, instruments, personnel or representatives. It is the customer's responsibility to ensure compliance with hazardous waste regulations, including regarding information, labelling, transportation and disposal and to inform ES personnel or representatives about sample health and safety concerns, including any known or suspected toxic or other contaminant that may be present in the sample and its likely level of contamination as well as the risks to ES premises, instruments, personnel and representatives related to the contamination. The customer shall be responsible for, and indemnifies ES against, all costs, damages, liabilities and injuries that may be caused to or incurred by ES or its personnel or representatives including on the sampling site, during the transportation or in the laboratory by the customer's sample or by sampling site conditions. The customer shall bear all extraordinary costs for adequate disposal of hazardous waste resulting from the sample, whether or not described as hazardous waste. At ES' request, the customer must provide ES with the exact composition of the samples.

### 5. Property Rights on Sample Material and Sample Storage

5.1 All samples become the property of ES to the extent necessary for the performance of the order. Unless the customer pays for storage, ES shall have no obligation or liability for samples sent to ES for storage, including samples requiring refrigeration. If the customer pays for storage, ES will take commercially reasonable steps to store the samples, according to professional practice.

5.2 ES can dispose of or destroy samples immediately after the analysis has been performed, unless ES and the customer have agreed in writing on the terms of ES' retention of the sample. ES also can dispose of or destroy the samples after the agreed upon retention period, without further notice and at customer's cost, should an extra cost for ES arise to comply with any regulation (for example, with respect to disposal of hazardous waste). If the customer requests the return of unneeded sample material, ES will return them to the customer, at the customer's cost and risk.

### 6. Delivery Dates, Turnaround Time

6.1 Delivery dates and turnaround times are estimates and do not constitute a commitment by ES. Nevertheless, ES shall make commercially reasonable efforts to meet its estimated deadlines.

6.2 Results are generally sent by email and/or by UK post, or via other electronic means, to the attention of the persons indicated by the customer in the order, promptly after the analysis is completed.

### 7. Transfer of Property

7.1 All intellectual property rights belonging to a party prior to placing an order or not specifically created by ES for the customer shall remain vested in that party. When all invoices in respect thereof have been paid by the customer in full, any data, analyses or test results produced by ES specifically in performing the order shall vest in the customer and ES grants the customer a non-exclusive licence to use any other intellectual property rights of ES contained in any reports prepared by ES and provided to the customer. In addition, even if ES has accepted and begun to fulfil

an order, ES has the right at any time to stop processing that order and to stop doing any work if the customer is late in paying any amount due to ES, whether for that or any other order. The customer shall not use any reports issued by ES in a misleading manner and agrees that it will only distribute such reports in their entirety. The customer warrants that any information or materials do not infringe third party rights.

7.2 Even after payment in full by the customer, ES shall retain the right to store, use and publish all analysis results in an anonymous form which does not identify the customer and to maintain copies of results and reports for archival, quality assurance and regulatory purposes.

7.3 The customer may reproduce or replicate any report but only in its entirety and in the form provided by ES and the customer shall not, without the written consent of ES, reproduce or replicate any report which has been modified from the form provided by ES.

### 8. Limited Warranties and Responsibilities

8.1 Orders are handled in the conditions available to ES in accordance with the current state of technology and methods developed and generally applied by ES and the results may not always be absolutely precise and/ or relevant. Analyses, interpretations, assessments, consulting services and conclusions are prepared with a commercially reasonable degree of care but ES cannot guarantee that these will always be correct or absolute. This limited warranty expires six months after the delivery date of the samples, if the acknowledgement of the order does not specifically state otherwise. In all cases, the customer must independently verify the validity of any results, interpretations, assessments and conclusions supplied by ES, if it wishes to rely on the same in respect of matters of importance and shall do so at its own risk.

8.2 Each analytical report relates exclusively to the sample analysed by ES. If ES has not expressly been mandated and paid for the definition of the sampling plan (including which samples of which raw materials and finished products and at which frequency should be analysed) and the definition of the precise range of analysis to be performed or if the customer has not followed ES recommendations, ES shall not bear any responsibility if the sampling plan and/or the range of analysis to be performed prove to be insufficient or inappropriate.

8.3 The customer is responsible for the proper delivery of samples sent to ES for examination/analyses or materials sent for production. Unless otherwise specifically agreed in writing by ES, ES 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 laboratories of ES. ES will use commercially reasonable care in handling and storing samples, but ES shall not be held responsible for any loss or destruction of samples even after their receipt at its laboratories.

8.4 The customer warrants and represents to ES that all samples sent to ES for analysis are safe and in a stable condition and undertakes to indemnify ES for any losses, injuries, claims and costs which ES, or its 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. The customer must always inform ES in writing prior to shipment and label the packaging, samples and/ or containers appropriately, if the samples are dangerous or otherwise of a hazardous nature.

8.5 In respect of consulting services, ES shall use its reasonable endeavours to give sound advice based on the information available, but the customer will remain wholly responsible for the accuracy and completeness of the information it provides and determining matters of policy or action related to that advice. The customer is responsible for providing timely instructions, information, and co-operation necessary for the work to be performed and agrees that ES shall not be liable for any delay, error or problem caused by any act or omission on the part of the customer, its agents or employees. ES may levy additional charges (at its then current standard rates) resulting from any additional work or additional costs incurred or undertaken as a consequence of any such act or omission. Statements, recommendations and forecasts made by ES or any report, presentation or other communication are made in good faith on the basis of information available at the time and are addressed only to the customer. Whilst ES will use reasonable skill and care in the preparation of such statements, recommendations, and forecasts, neither ES nor any consultant employed or engaged by ES shall have any liability in relation to losses or damage incurred as a result of or in relation to the customer's reliance on such opinions or recommendations and the customer acknowledges that such liability is a business risk of the customer. If any aspect or element of the services (including any sample provided for testing by ES) is, or is likely to be, the subject of or relevant to legal

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proceedings, this fact must be notified to ES in writing before the services are carried out and ES may decline to perform those services. If that fact is not disclosed to ES at that stage, ES will not be obliged to provide expert testimony but shall be entitled to payment for other services provided.

8.6 Unless explicitly agreed in writing by all parties, the contractual relationship shall be between exclusively the customer and ES. There shall be no third party beneficiary or collateral warranty relating to any order and the customer shall indemnify and hold ES harmless from and against any and all third party claims in any way relating to the customer or to the order by the customer.

8.7 Where ES supplies any software or web-enabled service to the customer, the customer shall use such software in accordance with the applicable licence terms, instructions and manuals.

8.8 All services are undertaken in good faith, to a reasonable standard of care and on a confidential basis. Reports are issued on the basis of information known to ES at the time that the services are carried out. Although ES will use all reasonable endeavours to ensure accuracy, the services depend, inter alia, on the effective co-operation of the customer, its staff and on the information submitted to ES. Save as required by law, no representation or warranty, whether express or implied or otherwise as to the accuracy of a report is given by ES. In consequence, all reports are prepared on the basis that: (i) there is no responsibility to any person or body other than the customer; (ii) they are not carried out for any particular purpose and no statement is to be deemed, in any circumstances to be or give rise to a representation, undertaking, warranty or contractual condition unless specifically stated; (iii) they are determined solely by the professional analysis undertaken by ES' staff on each individual order and any forecasts by ES of the results is an estimate only; (iv) ES is entitled to be paid the price irrespective of the results or conclusions reached in the report; (v) the results of the services shall address the items and information submitted only and are not to be regarded as representative of any larger population from which the sample was taken; (vi) the results are final and approved by ES. ES shall be under no liability where the customer has acted on preliminary, unapproved results or advice.

### **9 Limitation of Liability**

9.1 Except to the extent that such limitations are not permitted or void under applicable law and subject at all times to clause 9.2: (a) ES (together with its workers, office clerks, employees, representatives, managers, officers, directors, agents and consultants and all ES partners and affiliates, the "ES Indemnifying Parties") shall be liable only for the proven direct and immediate damage caused by the ES Indemnifying Party's breach of its obligations under these Terms and Conditions in connection with the performance of an order and then, only if ES has received written notice thereof not later than six (6) months after the date of the customer's knowledge of the relevant claim (unless any longer period is prescribed under applicable law and cannot be contractually limited), and (b) in all cases (whether arising under contract, tort, negligence, strict liability, through indemnification or otherwise), the ES Indemnifying Parties' aggregate liability in respect of all or any claims in relation to an order, and the customer's exclusive remedy, with respect to ES' services which fall under these Terms and Conditions, shall be limited to the lesser of: (i) the direct and immediate loss or damage caused by the ES Indemnifying Party's breach of its obligations under these Terms and Conditions in connection with the performance of the order and (ii) ten times the amount ES actually received from the customer in relation to the order up to fifty thousand pounds sterling (£50,000).

9.2 The ES Indemnifying Parties shall not be liable for any of the following: (i) loss of business profits; or (ii) depletion of goodwill or other similar losses; or (iii) loss of business opportunities; or (iv) loss of contracts; or (v) loss of revenue; or (vi) loss of anticipated savings; or (vii) loss of or damage to data; or (viii) for any special indirect or consequential losses, costs, charges, expenses or damages incurred by the customer or by any third party. However, the ES Indemnifying Parties only exclude and limit their liability as permitted by applicable law. The ES Indemnifying Parties do not exclude or limit their liability for death or personal injury caused by their negligence, for their fraudulent misrepresentation or for breach of implied terms under any applicable statute regarding ES' right to transfer good title (subject at all times to clause 7).

9.3 It is a condition of ES' acceptance of an order that the customer indemnifies the ES Indemnifying Parties for any losses, injuries, claims and costs which the ES Indemnifying Parties may suffer as a result of arising from or in any way connected with its role under or services or products or software provided pursuant to these Terms and Conditions, except to the extent that the ES Indemnifying Parties are required to bear them according

to these Terms and Conditions, and by placing an order the customer agrees to provide that indemnification.

9.4 The customer acknowledges that the provisions of this clause 9 are reasonable and reflected in the price which would be higher without those provisions and the customer will accept such risk and/or insure accordingly.

### **10. Repeated Analysis**

Objections to test results can be made within thirty (30) days after the customer receives the results. However, unless it would appear that the results of the repeated analysis do not match those of the first one, the customer shall bear the costs of the repeat testing or review. Furthermore, a repeated analysis will be possible only if ES has a sufficient amount of the original sample on hand when it receives the customer's objection. Otherwise, the customer will be required to pay all costs, including sampling, transportation, analytical and disposal costs for the repeat analysis.

### **11. Force Majeure**

ES cannot be held liable for delays, errors, damages or other problems caused by events or circumstances which are unforeseen or beyond ES' reasonable control, or which result from compliance with governmental requests, laws and regulations.

### **12. Confidentiality & Processing of Customer Data**

12.1 ES shall be entitled to save and process personal or commercial data received from the customer in any way, no matter whether such data stems from the customer directly or from a third party and shall use commercially reasonable efforts to keep such data confidential, in compliance with applicable law.

12.2 ES shall use commercially reasonable efforts to keep all analysis results and service reports confidential, subject to ES' rights set forth in clause 7.2 and the right to use them in order to demonstrate its entitlement to payment for services rendered and the requirement to disclose certain information as required by the law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that to the extent it is legally permitted to do so it gives the customer as much notice of such disclosure as possible.

12.3 Analysis results are prepared and supplied exclusively for the use of the customer and should not be divulged to a third party for any purposes without the prior written agreement of ES. In addition, the customer is required to maintain secrecy concerning all services provided by ES and their results as well as the composition of products and software delivered by ES. Analysis results are not to be publicly disclosed or exploited without the prior written consent of ES. Even if such written consent is given by ES, the customer (a) remains responsible for any consequences due to the divulgence of such results to a third party and any reliance of such third party on such results and (b) hereby agrees to indemnify the ES Indemnified Parties against any liability which the ES Indemnified Parties may incur as a result of such divulgence or any such third party reliance.

### **13. Disclaimer and Miscellaneous**

**13.1 EXCEPT AS EXPRESSLY SET OUT IN THESE TERMS AND CONDITIONS AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL CONDITIONS, WARRANTIES AND OTHER TERMS (INCLUDING ANY IMPLIED WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) AS TO THE MANNER, QUALITY AND TIMING OF THE TESTING SERVICE AND RESULTS, EQUIPMENT, PRODUCTS OR SOFTWARE SUPPLIED BY ES ARE EXCLUDED AND THE WARRANTIES, OBLIGATIONS AND LIABILITIES OF ES CONTAINED IN THESE TERMS AND CONDITIONS ARE EXCLUSIVE.**

13.2 If the order is a consumer transaction, the statutory rights of the customer are not affected by these Terms and Conditions.

13.3 These Terms and Conditions may be modified in writing from time to time by ES and orders will be governed by the most recent version of these Terms and Conditions that is in effect at the time ES accepts the order.

13.4 Should a court waive, limit or hold to be invalid, illegal or unenforceable any part of these Terms and Conditions, all other parts shall still apply to the greatest extent possible.

13.5 Failure by either ES or the customer to exercise the rights under these Terms and Conditions shall not constitute a waiver or forfeiture of such rights.

13.6 Except as expressly set out in these Terms and Conditions, a person who is not a party to this contract shall not have any rights under or in connection with it.

13.7 These Terms and Conditions contain the entire understanding between ES and the customer in connection with the matters herein contained and supersede any previous agreements or undertakings (whether written, oral or implied) relating to the subject matter of these Terms and Conditions. ES and the customer acknowledge that in entering into these Terms and Conditions neither has relied on any oral or written representation or undertaking by the other except as expressly incorporated in these Terms and Conditions.

13.8 The customer undertakes to comply with all applicable laws and regulations related to anti-bribery, anti-corruption, anti-money laundering, trade sanctions and anti-terrorism.

### **14. Economic Sanctions**

14.1 The customer warrants that for the term of these Terms and Conditions, in relation to any economic and trade Sanctions imposed by the United Nations, the European Union, the United States of America or any other country, that:

- it is not the target of any Economic Sanctions;
- to the best of its knowledge, it is not controlled or beneficially owned by any person subject to Economic Sanctions;
- it shall comply with all Economic Sanctions Laws. Without limiting the generality of the foregoing, the customer shall not (i) directly or indirectly export, re-export, transship or otherwise deliver the services or any portion of the services in violation of any Economic Sanctions Law, or (ii) broker, finance or otherwise facilitate any transaction in violation of any Economic Sanctions Law;
- it is not engaged in any proceedings or subject to any investigations from authorities for the alleged breach of any Economic Sanctions Law.

14.2 The customer shall indemnify ES against any losses, liabilities, damages, fines, costs (including but not limited to legal fees) and expenses incurred by or awarded against the customer as a result of any breach of clause 14.1 by the customer.

14.3 Without affecting any other right or remedy available to it, ES may terminate this Agreement with immediate effect by giving written notice to the customer if the customer commits a breach of clause 14.1, and the customer shall not be entitled to claim compensation or any further remuneration.

For the purpose of this clause:

- Economic Sanctions means any economic Sanctions, restrictive measures or trade embargoes adopted by the UN Security Council, the European Union, the United States of America or any other sovereign government.
- Economic Sanctions Law means any law, regulation or decision enacting Economic Sanctions.

### **15. Governing Law/ Jurisdiction**

15.1 The construction, validity and performance of these Terms and Conditions and any contract which incorporates these Terms and Conditions shall be governed by the laws and the commercial courts of England which shall have exclusive jurisdiction.