

## **ELEMENT MATERIALS TECHNOLOGY**

### **TERMS AND CONDITIONS (US)**

#### **1. Formation of Contract**

- 1.1 These terms and **Terms and Conditions**  
any quotation, proposal, estimate,



5.4 When testing, analysis or other services are carried out, the Company shall not be liable in respect of any costs or losses resulting from damage to or destruction of any property belonging to the Customer unless the Customer notifies the Company in writing before delivery to the Company and the property itself delivered to the Company is clearly

and the  
for damage to or destruction of

5.4.1

5.4.2 the cost of the Services performed on the damaged or destroyed property pursuant to the Contract.

## **6. Re-Delivery**

6.1

the Services) back to the Customer after performing Services relating to that property. The Company may use any method of delivery that it reasonably decides and will do so as the agent of the Customer and will not have any liability in respect of any such item so delivered. The Company may at its discretion instruct any person delivering such property to the Customer to invoice that Customer directly in respect of that delivery and the Customer shall make any and all claims for property damaged in transit directly and solely against such delivery company or other person.

6.2 Unless specifically instructed to the contrary in writing by the Customer,

property after completion of the Services provided that the length of time

destroyed will be at the absolute discretion of the Company. The Company reserves the right to invoice the Customer for any costs of disposal. Where property of the Customer is, in the sole opinion of the Company, too bulky or too unstable to allow storage time of more than one month, it will be at the absolute discretion of the Company as to the length of time such property is kept before being destroyed.

## **7. Title & Security**

Title to the  
all risk of loss or damage to such property (except for loss or damage caused by the Company and for which and to the extent that the Company accepts liability under these Terms and Conditions) shall remain with the Customer at all times, who shall be responsible for effecting and maintaining its own insurance coverage thereof, it being hereby acknowledged by the Customer that the charges of the Company do not include insurance. The Company may retain all property delivered to it until all sums due and owing to the Company by the Customer have been paid.

## **8. Liability and Indemnity**

8.1 This condition 8 sets out the entire financial liability of the Company, its employees, agents and sub-

- 8.8.1 death or personal injury to the extent resulting from the negligence; or
- 8.8.2 liability incurred by the Customer to the extent resulting from fraud or fraudulent misrepresentation by the Company; or
- 8.8.3 any other matter which may not be limited or excluded by law to the extent arising out of the errors or omissions of Company.

8.9 This condition 8 shall survive termination of the Contract.

**9. Intellectual Property Rights**

9.1 In this condition 9, the following definitions apply:

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights (now existing or hereafter created), in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

9.2 All Intellectual Property Rights (including copyright in records, scientific documentary, primary data or electronic means of handling data) produced during any Service shall belong to and remain the property of the Company unless otherwise expressly agreed as part of the Contract.

9.3 Ownership and copyright in the Report shall remain with the Company. Upon the Customer discharging all its obligations under the Contract, including payment of the Consideration, the Customer will obtain an irrevocable, royalty-free, non-exclusive license to use the Report (including the right to sub-license), subject to the terms of sub-condition 9.2 and this sub-condition 9.3.

9.4 All Intellectual Property Rights in all service mark(s), trademark(s), certification mark(s) and other names and logos owned by the Company shall remain the property of the Company and cannot be sold or licensed by the Customer.

9.5 When certification is granted the Company shall award, upon written request, a license to use the certification mark(s) and logos for the certification validity period, subject to the applicable terms of use (as amended from time to time) which are issued with every certification and are available on request.

9.6 The Customer shall indemnify the Company against all losses to which the Company may become liable as a result of a claim that the use of any data, equipment or other materials supplied by the Customer for the performance of the Services involves the infringement of any Intellectual Property Rights of any third party.

9.7 Except for the rights to use the Reports set forth in condition 10, this Contract does not grant and shall not be construed as granting, any rights to either party to any name or mark of the other party. Neither party is granted any right to the other party with any publication and may not give any press release or make any other public announcement regarding this Contract, the Services or any transaction between the parties without the express prior written consent of the other party.

**10. Use of Reports**

10.1 The Reports constitute confidential information that is to be protected and shall be used solely to:

- 10.1.1 assist the Customer in completing its internal requirements and the Company in performing Services for

12.3 If any aspect or element of the Services (including any Sample) is, or is likely to be, the subject of or relevant to legal proceedings, this fact must

local, international or other applicable laws, rules or regulations governing the use and protection of data..

20.1 Within this condition 20 **Process/Processing/Processed Data Controller Data Processor Data Subject Personal Data Personal Data Breach**

Protection Laws; provided that the US Data Protection Laws shall be controlling should there be a conflict between any Data Protection Laws and thereafter the GDPR shall have priority.

20.2 The Customer agrees not to provide or otherwise make available Personal Data to the Company, other than business contact information (for example, business, telephone number, job title, and email address), unless otherwise required for the provision of the Services, in which case such additional Personal Data shall be specifically identified in advance by Customer and agreed to in writing by the Company.

20.3 Where Personal Data is Processed by a party under or in connection with the Contract that party, as Data Processor, shall:

20.3.1

