



Terms and Conditions

1. General

- (a) Unless otherwise agreed in writing or except where they are at variance with (i) the regulations governing services performed on behalf of governments, government bodies or any other public entity or (ii) the mandatory provisions of local law, all offers or services and all resulting contractual relationship(s) between DoVes Research (hereinafter, “the Company”) and the Client (the “Contractual Relationship(s)”) shall be governed by these general conditions of service (hereinafter the “General Conditions”).
- (b) The Company may perform services for persons or entities (private, public or governmental) issuing instructions (hereinafter, “the Client”).
- (c) Unless the Company receives prior written instructions to the contrary from the Client, no other party is entitled to give instructions, particularly on the scope of the services or the delivery of reports or certificates resulting (hereinafter, “the Reports of Findings”). The Client hereby irrevocably authorizes the Company to deliver Reports of Findings to a third party where so instructed by the Client or, at its discretion, where it implicitly follows from circumstances, trade custom, usage or practice.

2. Provision of Services

- (a) The Company will provide services using reasonable care and skill and in accordance with the Client’s specific instructions as confirmed by the Company or, in the absence of such instructions:
 - i.) The terms of any standard order form or standard specification sheet of the Company; and/or,
 - ii.) Any relevant trade custom, usage or practice; and/or,
 - iii.) Such methods as the Company shall consider appropriate on technical, operational and/or financial grounds.
- (b) Information stated in Reports of Findings is derived from the results of inspection and/or testing procedures carried out in accordance with the instructions of the Client, and/or our assessment of such results on the basis of any technical standards, trade custom or practice, or other circumstances which should in our professional opinion be taken into account.
- (c) Reports of Findings issued further to the testing of samples contain the Company’s opinion on those samples only and do not express any opinion upon the lot from which the samples were drawn.
- (d) Should the Client request that the Company witness any third party intervention, the Client agrees that the Company’s sole responsibility is to be present at the time of the third party’s intervention and to forward the results, or confirm the occurrence, of the intervention. The Client agrees that the Company is not responsible for the condition or calibration of

apparatus, instruments and measuring devices used, the analysis methods applied, the qualifications, actions or omissions of third party personnel or the analysis results.

- (e) Reports of Findings issued by the Company will reflect the facts as recorded by it at the time of its intervention only and within the limits of the instructions received or, in the absence of such instructions, within the limits of the alternative parameters applied as provided for in clause 2(a). The Company is under no obligation to refer to, or report upon, any facts or circumstances which are outside the specific instructions received or alternative parameters applied.
- (f) The Company may delegate the performance of all or part of the services to an agent or subcontractor and the Client authorizes the Company to disclose all information necessary for such performance to the agent or subcontractor.
- (g) Should the Company receive documents reflecting engagements contracted between the Client and third parties or third party documents, they are considered to be for information only, and do not extend or restrict the scope of the services or the obligations accepted by the Company.
- (h) The Client acknowledges that the Company, by providing the services, neither takes the place of the Client or any third party, nor releases them from any of their obligations, nor otherwise assumes, abridges, abrogates or undertakes to discharge any duty of the Client to any third party or that of any third party to the Client.

3. Obligations of Client

The Client will:

- (a) Ensure that sufficient information, instructions and documents are given in due time (and, in any event not later than 48 hours prior to the desired intervention) to enable the required services to be performed;
- (b) Procure all necessary access for the Company's representatives to the premises where the services are to be performed and take all necessary steps to eliminate or remedy any obstacles to, or interruptions in, the performance of the services;
- (c) Supply, if required, any special equipment and personnel necessary for the performance of the services;
- (d) 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 required or not;
- (e) 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;
- (f) Fully exercise all its rights and discharge all its liabilities under any relevant sales or other contract with a third party and at law.

4. Fees and Payment

- (a) Fees not established between the Company and the Client at the time the order is placed or a contract is negotiated shall be at the Company's standard rates (which are subject to change) and all applicable taxes shall be payable by the Client.

- (b)** Unless a shorter period is established in the invoice, the Client will promptly pay not later than 30 days from the relevant invoice date or within such other period as may be established by the Company in the invoice (the "Due Date") all fees due to the Company failing which interest will become due at a rate of 1.5% per month (or such other rate as may be established in the invoice) from the Due Date up to and including the date payment is actually received.
- (c)** The Client shall not be entitled to retain or defer payment of any sums due to the Company on account of any dispute, counter claim or set off which it may allege against the Company.
- (d)** The Company may elect to bring action for the collection of unpaid fees in any court having competent jurisdiction.
- (e)** The Client shall pay all of the Company's collection costs, including legal fees and related costs.
- (f)** In the event any unforeseen problems or expenses arise in the course of carrying out the services, the Company shall endeavor to inform the Client and shall be entitled to charge additional fees to cover extra time and cost necessarily incurred to complete the services.
- (g)** If the Company is unable to perform all or part of the services for any cause whatsoever outside the Company's control including failure by the Client to comply with any of its obligations provided for in clause 3 above, the Company shall nevertheless be entitled to payment of:
 - i.) The amount of all non-refundable expenses incurred by the Company; and,
 - ii.) A proportion of the agreed fee equal to the proportion of the services actually carried out.

5. Suspension or Termination of Services

The Company shall be entitled to immediately and without liability either suspend or terminate provision of the services in the event of:

- (a)** Failure by the Client to comply with any of its obligations hereunder and such failure is not remedied within 10 days that notice of such failure has been notified to the Client; or,
- (b)** Any suspension of payment, arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by the Client.

6. Liability and Indemnification

(a) Limitation of Liability

- i.) The Company is neither an insurer nor a guarantor and disclaims all liability in such capacity. Clients seeking a guarantee against loss or damage should obtain appropriate insurance.
- ii.) Reports of Findings are issued on the basis of information, documents and/or samples provided by, or on behalf of, the Client and solely for the benefit of the Client who is responsible for acting as it sees fit on the basis of such Reports of Findings. Neither the Company nor any of its officers, employees, agents or subcontractors shall be liable to the Client nor any third party for any actions taken or not taken on the basis of such Reports of Findings nor for any incorrect results arising from unclear, erroneous, incomplete, misleading or false information provided to the Company.
- iii.) The Company shall not be liable for any delayed, partial or total non-performance of the services arising directly or indirectly from any event outside the Company's

control including failure by the Client to comply with any of its obligations hereunder.

- iv.) The liability of the Company in respect of any claim for loss, damage or expense of any nature and howsoever arising shall in no circumstances exceed a total aggregate sum equal to ten (10) times the amount of the fee paid in respect of the specific service which gives rise to such claim or AU\$20,000 (or its equivalent in local currency), whichever is the lesser.
- v.) The Company shall have no liability for any indirect or consequential loss (including loss of profits).
- vi.) In the event of any claim, the Client must give written notice to the Company within thirty (30) days of discovery of the facts alleged to justify such claim and, in any case, the Company shall be discharged from all liability for all claims for loss, damage or expense unless suit is brought within one year from:
 - The date of performance by the Company of the service which gives rise to the claim; or,
 - The date when the service should have been completed in the event of any alleged non-performance.

(b) Indemnification: The Client shall guarantee, hold harmless and indemnify the Company and its officers, employees, agents or subcontractors against all claims (actual or threatened) by any third party for loss, damage or expense of whatsoever nature including all legal expenses and related costs and howsoever arising relating to the performance, purported performance or non-performance, of any services.

7. Miscellaneous

- (a)** If any one or more provisions of these General Conditions are found to be illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- (b)** During the course of providing the services and for a period of one year thereafter, the Client shall not directly or indirectly entice, encourage or make any offer to the Company's employees to leave their employment with the Company.
- (c)** Use of the Company's corporate name or registered marks for advertising purposes is not permitted without the Company's prior written authorization.

8. Governing Law, Jurisdiction and Dispute Resolution

Unless specifically agreed otherwise, all disputes arising out or in connection with Contractual Relationship(s) hereunder shall be governed by the substantive laws of Australia exclusive of any rules with respect to conflicts of laws and be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules.

1 January 2017