

# Annex A TIAS(UK) LTD

## Terms and conditions of trading for the provision of testing and consultancy services

### 1 Definitions

The following definitions apply in these Terms and Conditions

"Contract"	The Contract Agreement to which these Terms and Conditions relate
"TIAS(UK)"	TIAS(UK) Ltd
"Client"	The second party to the Contract
"Report"	Written document or documents provided by TIAS(UK) to the Client
"Services"	All Services provided by TIAS(UK) including, but not limited to, testing, research, business, training and other professional Services detailed under "Scope of Work".
"Force Majeure"	Any event outside TIAS(UK)'s control including but not limited to, strikes, industrial action, interruptions in the supply of Services (electricity, gas, water), plant and machinery failure and shortages of materials.
"Intellectual Property"	Any know-how, copyright, technical information, data, inventions, techniques, processes systems, formulae, results of experimentation, designs, statistics or records.

### 2 Scope

- 2.1 These Terms and Conditions shall apply to all Contracts entered into between TIAS(UK) and the Client and shall prevail over any terms put forward by the Client unless agreed in writing to the contrary.
- 2.2 No conduct by TIAS(UK) is to be regarded as a variation of these Terms and Conditions unless confirmed in writing.
- 2.3 TIAS(UK) shall incur no liability to the Client for misrepresentation by virtue of any statement made by or on behalf of TIAS(UK) prior to this Contract, whether orally or in any letter, document or sales literature and the Client shall not be entitled to rescind this Contract on the grounds of any such misrepresentation.
- 2.4 No employee of TIAS(UK) has authority to make any statement or representation about the Services supplied under the Contract or to vary these Terms and Conditions.

### 3 Confidentiality

- 3.1 Services undertaken by TIAS(UK) will be on a confidential basis and the results will be the property of the Client. The contents of any Report will not be disclosed to third parties without the written consent of the Client.
- 3.2 This condition will be deemed to have been waived insofar as any Report is communicated in whole or in part by the Client to any third party in such a way as to misrepresent or distort the contents of the Report and any test results contained in it.

### 4 Intellectual Property

- 4.1 Background Intellectual Property owned by the Client and used within the Contract remains the exclusive property of the Client. In making this Intellectual Property available for

use within the Contract, the Client is deemed to have given TIAS(UK) a royalty free licence for its use within the Contract on such terms as may be stipulated at the time it is provided.

- 4.2 Background Intellectual Property owned by TIAS(UK) is and shall remain the exclusive property of TIAS(UK).
- 4.3 All Intellectual Property (including the copyright in all drawings, calculations and other documents) produced within the Contract belongs to and shall remain vested in TIAS(UK).
- 4.4 The Client shall not make copies of any documents or electronic outputs produced within the Contract without the prior written approval of TIAS(UK), such approval will not be unreasonably withheld.

### 5 Accuracy

- 5.1 Where the results provided by TIAS(UK) comprise advice, data and conclusions, these are given on the understanding that they are subject to the limitations of normal experimental accuracy and that advice given and conclusions drawn are based on the evidence known at the time to TIAS(UK).
- 5.2 Whilst every effort is made to ensure the soundness of advice given, TIAS(UK) cannot accept liability for loss or damage arising from the use of the information supplied to the Client in the proper execution of the Services.

### 6 Delivery to TIAS(UK) of equipment, materials and documents

- 6.1 Except where otherwise agreed, all equipment, materials and documents for which the Client has responsibility and which are necessary for the proper provision of the Services defined in the Contract including any background Intellectual Property, shall be delivered to and collected from TIAS(UK) or any other location as may be specified by TIAS(UK) by the dates defined for such deliveries in the Contract. This is to include all specimens and test matter provisioned for testing on behalf of the Client by TIAS(UK).
- 6.2 TIAS(UK) reserves the right at its own discretion to claim from the Client damages for all losses arising out of failure on the part of the Client to make promptly all such deliveries as defined in 6.1 above, to include loss of profits due to lost time and the cost of storage of materials and equipment.
- 6.3 Where it is necessary for TIAS(UK) to obtain equipment and/or materials, this will be defined in the Contract and any associated costs will be recoverable from the Client.
- 6.4 Unless specifically agreed otherwise, TIAS(UK) will arrange for the removal from its premises of all items delivered under 6.1 not earlier than four weeks from the date of issue of the Report.

### 7 Access to external premises

When the particulars of the Contract require access to premises or other areas not occupied by TIAS(UK) and when it has been agreed that such access will be arranged and secured by the Client, TIAS(UK) reserves the right to claim for damages incurred if, for whatever reason, such access cannot be provided at the time agreed.

## 8 Preparatory work

If it is agreed that certain preparatory work needs to be completed by the Client before TIAS(UK) can commence its own work, this will be stated in the Contract with an agreed completion date. If this preparatory work is not completed by the agreed date, the Client will indemnify TIAS(UK) against any losses, including loss of profit, thereby incurred.

## 9 Acceptance

Notwithstanding the agreed commencement date, TIAS(UK) will not start work unless a signed acceptance of the Contract has been received and all deliveries (in 6 above) have been made and all preparatory work (in 8 above) has been completed.

## 10 Payment

- 10.1 The cost of the Services provided by TIAS(UK) will be as defined in the Contract in section 2 Fees.
- 10.2 All payments are to be made within thirty days from the date of invoice unless otherwise stated in section 2 Fees.
- 10.3 All Contracts, no matter what term is agreed, will be liable for a pricing review on 1 January of each new calendar year.

## 11 Variations to Contract

Services required beyond the Scope of Work detailed in the Contract will not be undertaken without written acceptance by the Client of a revised Scope of Work and agreement of any additional fees chargeable where the change in scope is deemed as significant, otherwise any minor change of scope will be automatically added to the invoiced cost for the service.

## 12 Cancellation

TIAS(UK) reserves the right to claim damages for any losses incurred by TIAS(UK) as a result of any cancellation or postponement by the Client of the Services, including loss of profit, costs, including the costs of labour and materials, damages, charges and expenses.

## 13 Health and safety

Where any aspect of the work is undertaken on premises not occupied by TIAS(UK) or under its direct control, it is the responsibility of the Client to ensure that all necessary safeguards are in place and all safety measures taken to comply with the Health and Safety at Work Act 1974 and subsequent legislation and will indemnify TIAS(UK) against any consequence of a breach of the said Act. TIAS(UK) reserves the right not to commence work if it believes this not to be the case and to recover any losses thereby incurred, including loss of profits.

## 14 Report & Timescales

The Client is, unless otherwise agreed in the Contract, entitled to one copy of the Report.

All dates given in the Contract for commencement, issue of the Report and other deliverables are estimates only. TIAS(UK) will not be liable for any losses due to delay, howsoever caused.

## 15 Exclusion of third party rights

Notwithstanding any other provision of this Agreement, nothing in this Agreement shall confer, nor is it intended to confer, a benefit on any third party for the purposes of the Contract (Rights of Third Parties) Act 1999 or for any other purpose.

## 16 Force Majeure

If performance of TIAS(UK)'s obligations is delayed or hindered by circumstances outside TIAS(UK)'s control amounting to Force Majeure as defined in these conditions, the following provisions shall apply.

- 17.1 TIAS(UK) will, as soon as reasonably practicable, give to the Client notice of the reasons for the delay or hindrance. However, failure to give such notice will not prevent TIAS(UK) relying on the remaining provision of this clause and TIAS(UK) will incur no liability for failure to give such notice.
- 17.2 If the circumstances amounting to Force Majeure lead to the loss of any specimen provided by or preparatory work carried out by the Client, being destroyed or damaged to an extent which renders them useless for TIAS(UK)'s purposes, TIAS(UK) will, as soon as practicable, give notice thereof to the Client who will, upon receipt of the notice and at its own expense, provide a duplicate specimen and repeat the preparatory work within a timescale agreed by the parties or, failing agreement, fixed by the arbitrator under clause 17 hereof. TIAS(UK) will be under no duty to the Client to indemnify the Client against the loss of any specimen or the costs incurred in the repetition of preparatory work.
- 17.3 TIAS(UK)'s duty to perform shall be suspended for as long as the circumstances amounting to Force Majeure continue and until the Client delivers a further specimen or completes any further preparatory work required under clause 16.2 hereof. Furthermore, the time for performance of TIAS(UK)'s obligations shall be extended by a period equal to the duration of circumstances amounting to Force Majeure, or to any direct consequence thereof including time taken by the Client to provide a duplicate specimen or repeat any preparatory work under clause 16.2 hereof, whichever is the longer.

## 17 Arbitration

Any dispute arising under or in connection with these conditions, or the provision of the Services hereunder shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the Law Society.

## 18 Notices

Any notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

## 19 Waiver and severability

- 20.1 No waiver by TIAS(UK) of any breach of the Contract or these conditions by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 20.2 If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.
- 20.3 The Headings to these conditions do not form part of the Terms and Conditions and are not to affect their interpretation.
- 20.4 The Contract and these Terms and Conditions shall be governed by the Laws of England.