

1. GENERAL

- a) SRG will provide the Services described in the accompanying tender, quotation, or email to the Client, which together with these terms and conditions will hereafter be called the 'Agreement'.
- b) For the avoidance of doubt, the Agreement contains the entire agreement between SRG and the Client and no terms or conditions submitted by either party that are in addition to or inconsistent with the terms and conditions contained in the Agreement, including, but not limited to, the Client's terms and conditions or any terms and conditions contained in the Client's purchase order, acknowledgement, acceptance, or other instrument, shall be binding on either party unless expressly agreed to in writing and signed by duly authorised representatives of both parties. This clause does not exclude a party's liability for prior false, misleading or deceptive statements or misrepresentations, whether oral or written.
- c) This Agreement will be binding on the Client from the date the Agreement is accepted by the Client in writing, through the placement of an order for, or receipt of samples for analysis based upon this Agreement.

2. PROVISION OF SERVICES

- a) SRG will provide the Services by exercising the same degree of skill, care and diligence that would be exercised by professional service providers in similar circumstances.
- b) If the Client requires the Services to be performed to a specific standard or criteria or requires detection limits and/or confidence intervals different to those inherent in SRG's standard testing methodology, then the Client must advise SRG of such needs prior to submission of samples.
- c) The Client acknowledges that it is the Client's sole responsibility to make its own assessment of the suitability for any purpose of the Services, detection limits and confidence intervals inherent in SRG's standard testing methodology, the SRG Report and its contents. All data and SRG Reports relate to the sample tested only.
- d) SRG may subcontract all or part of the Services to a subcontractor and the Client consents to SRG disclosing all information (including Confidential Information) of the Client to that subcontractor necessary for the performance of the Services.
- e) Any costs incurred by SRG due to the delay to the Services caused by the Client or any event beyond SRG's reasonable control, including the cost of mitigating any delay, will be priced as a variation to be agreed by the parties, or failing which, to be based on reasonable market rates and price.
- f) For the avoidance of doubt, the effects of any adverse conditions on the site or its near surrounds, including artificial things, weather conditions and the effects of weather conditions, will be a deemed variation entitling SRG to time and costs entitlement.
- g) Parties agree that in no event whatsoever will SRG be liable or responsible for any claims for damages for delay howsoever arising (whether liquidated or otherwise), except if such delay is an unreasonable and intentional delay with knowledge of the harmful consequences of such delay.

3. FEES AND PAYMENT

- a) Payment terms are 30 days from the date of invoice (Due Date). The Client will have no right to set off or backcharge and are not permitted to make any deduction for damages or losses or other claims for interim payments.
- b) All prices quoted by SRG are exclusive of GST (or other value added tax if relevant) unless stated otherwise. The Client must pay the amount of GST specified in an invoice issued by SRG pursuant to A New Tax System (Goods and Services Tax) Act 1999.
- c) SRG reserves the right to review prices at any time if significant changes to SRG's costs are incurred that are beyond SRG's control, such changes may include, but are not limited to, changes in legislative requirements, Client variations to sample numbers, analytes requested, turnaround required, or reporting requirements.
- d) All fees due and payable after the Due Date (Outstanding Amount) will be subject to the payment of interest at a rate of 1.5% per month of the Outstanding Amount from the Due Date up to and including the date of payment, unless SRG and the Client otherwise agree in writing.

- e) The Client will indemnify SRG for any fees incurred by SRG to recover the outstanding Amount, including any solicitor fees, or collection agency fees.

4. LIMITATION OF LIABILITY

- a) To the full extent permitted by law, SRG excludes all warranties, terms, conditions or undertakings (Terms), whether express or implied, in relation to the Services, the SRG Report, or its contents Where any legislation implies any Terms in this Agreement that cannot be modified or excluded then, such Terms shall deem to be included. However, to the full extent permitted by law, SRG's liability to the Client for any breach of any Terms that cannot be excluded by law is limited at SRG's option to the re-performance of the Services or the refund of the fee for the Services.
- b) The Client hereby releases and indemnifies and shall continue to release and indemnify SRG, its officers, employees and agents from and against all actions, claims (actual or threatened), proceedings (including proceedings where SRG is joined pursuant to any proportionate liability regime, whether under common law or any federal, state, or territory legislation) or demands (including any costs and expenses in defending or servicing same) which may be brought against it or them, in respect of any loss (including consequential loss), death, injury, illness or damage to persons or property, and whether direct or indirect and in respect of any breach of any industrial or intellectual property rights, howsoever arising out of the use of, reliance on, or benefit of, the Services or any SRG Report, except to the extent that the loss, death, injury, illness or damage to persons or property was directly caused by the negligence, willful acts or omissions of SRG or its employees.
- c) Notwithstanding any other provision of the Agreement, and except to the extent that liability cannot be limited or excluded by law:
 - (i) Neither party will be liable to the other party for any special, indirect or consequential loss, loss of profits, economic loss, loss of use, loss of production, loss of opportunity, loss of revenue, any new or increased costs or expenses including financing and capital cost, or any loss resulting from any liability to any third party arising from the contract or otherwise;
 - (ii) Each party's cumulative liability to the other party for any loss or damage whatsoever which arises under or in connection with this Agreement or the provision of Services, and whether by way of an indemnity or statute, in tort (for negligence or otherwise), or on any other basis in law or equity, is limited to 50% of the value of the Services provided. For the avoidance of doubt, this subclause (ii) does not apply to or limit the Client's liability to pay SRG the purchase price of the Services or the Client's liability to indemnify SRG for any loss or damage to property belonging to SRG under the Client's possession and/or control.

5. CLIENT'S OBLIGATIONS

- a) The Client will ensure that all personnel, information, samples, test materials, access to facilities and infrastructure, assistance, records, documentation and facilities needed by SRG to perform the Services, are available when reasonably required by SRG.
- b) The Client will give written notice to SRG of all known safety or health hazards and special procedures applicable to the performance of the Services, and the safe handling, testing, storage, transport and disposal of samples submitted to SRG (including whether or not the disposal of samples may cause contamination) or the Client's facilities or infrastructure in which SRG is partly or wholly performing the Services. SRG may in its absolute discretion, refuse to provide part or all of the Services where it determines that the provision of part or all of the Services may pose a health or safety hazard. The Client must take all necessary steps to remove or remedy any known safety or health hazards, or any obstacles to or anything that is likely to interrupt the performance of the Services by SRG.
- c) The Client must take all necessary steps to remove or remedy any known safety or health hazards, or any obstacles to or anything that is likely to interrupt the performance of the Services by SRG.
- d) The Client and SRG agree that during the period SRG is providing Services to the Client, and for a period of six months thereafter, the Client and any entity related to the Client, must not make any offer of employment to any current employee of SRG without SRG's prior consent.

6. INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION

- a) All SRG IP will remain the property of SRG. SRG grants to the Client a worldwide, non-exclusive, royalty-free licence to use SRG IP for the purpose agreed to between the Client and SRG to the extent that it is needed for the enjoyment and benefit of the Services.
- b) Neither SRG nor the Client will disclose Confidential Information of the other party to any third party without the prior written consent of the other party, unless required by law or the rules of a relevant stock exchange. SRG and the Client will only use Confidential Information of the other party for the purpose of the supply of the Services.
- c) Any report, findings, results, statement, certification issued by SRG (SRG Report) is issued on the basis of testing of samples or materials, information, or documents provided by, or on behalf of, the Client. The Client will indemnify and hold harmless SRG, its officers, employees, agents and subcontractors for any claim whatsoever in relation to any SRG Report arising from unclear, erroneous, incomplete, misleading or false information provided to SRG; or arising from any incorrect or defective materials or samples provided to SRG.
- d) Each SRG Report is:
 - (i) issued using detection limits and confidence intervals inherent in SRG's testing methodology;
 - (ii) contains SRG's results and opinions (if provided) on those samples or specific materials only;
 - (iii) solely for the benefit of the Client, its officers and employees; and
 - (iv) prepared at the request of the Client for the purpose agreed between the Client and SRG, and the Client may disclose the report to a third party for that purpose only, but SRG does not accept any responsibility or liability (including, without limitation, liability for negligence) to that third party.
- e) The Client indemnifies SRG, its directors, employees, agents, consultants, contractors, successors in title and assigns against any claim made against any or all of them by third parties arising out of either the disclosure of any SRG Report, whether directly or indirectly by the Client, to a third party; or any reproduction or publication of an extract of any SRG Report, except to the extent any claim is caused or contributed to by the negligence, breach or willful misconduct of SRG.
- f) The Client acknowledges and agrees that any action, inaction, or decision of the Client in response to the SRG Report will be determined by the Client. Neither SRG nor any of its officers, employees, agents, or subcontractors will be liable to the Client or any third party for any action or inaction of the Client in response to any SRG Report.
- g) SRG agrees to not provide the data and output collected and retrieved by SRG from the Client's machines, facilities, samples or the likes in performing the Services to any third party (other than a third party engaged by SRG to assist in the provision of the Services), unless it is:
 - (i) required to do so for the purpose of any audit or compliance purposes, or as otherwise required by law; or
 - (ii) provided on an aggregated and anonymous basis, together with data or output from one, or more, other subscribers to the Services, for the purposes of providing statistical and/or analytical information.
- h) Subject to subclause (g) above, the Client hereby unconditionally and irrevocably grant to SRG, a perpetual worldwide, royalty-free, non-exclusive licence to use, reproduce, copy, store, modify, adapt, distribute, publish and create derivative works from, and otherwise exercise all intellectual property rights in, the anonymised data or output for any purpose and in any form, without compensation to the Client.

7. TERMINATION

- a) SRG may with reasonable prior notice suspend or terminate its obligations under this Agreement if (a) monies payable to SRG by the client are outstanding 60 days or more (unless otherwise agreed) after the date of invoice, (b) other substantial breach by the Client of their obligations under the Agreement, which breach is not remedied within 30 days of written notice the breach to be remedied, or (c) by giving the Client 60 days written notice of SRG's intention to terminate.
- b) The Client may terminate its obligations under this Agreement in the event of a substantial breach by SRG of its obligations under the Agreement, which breach has not been remedied within 30 days of written notice to SRG requiring the breach to be remedied.

- c) If SRG, acting reasonably, suspects that the Client is insolvent or is having difficulties paying its debts as and when they become due, or the Client is insolvent, SRG may give written notice to the Client of SRG's intention to immediately suspend or terminate its obligations under this Agreement.
- d) In the event of termination, SRG is entitled to be paid for all work performed up to the date of termination and for any unavoidable commitments entered into by SRG before the date of termination.

8. MISCELLANEOUS

- a) Any provision of this Agreement that is illegal, invalid or unenforceable will be severed to the extent that it is illegal, invalid or unenforceable, with the remainder of the Agreement continuing in full force.
- b) This Agreement is governed by the law of the state or territory in which the Services are provided, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that place.
- c) SRG will retain Client data for three (3) years only from the date of the final SRG Report.
- d) Samples may be collected after receiving the SRG Report. Storage fees will apply to samples that are not collected within 30 days from the date of issue of the SRG Report, and SRG may dispose of those samples at the Client's cost unless otherwise agreed in writing with SRG.
- e) Samples are stored at the Client's exclusive risk of loss, damage or delay in delivery whatsoever, including, without limitation, loss, damage or delay caused through (a) any action or failure to act beyond the reasonable control of SRG, (b) ordinary wear and tear in handling, (c) natural deterioration of packing material over time, (d) theft, (e) sprinkler or other water damage, (f) fire.

9. DEFINITIONS

- a) **SRG** means SRG Global Asset Care Pty Ltd ABN 21 006 353 046.
- b) **SRG IP** means all intellectual property and proprietary rights (whether registered or unregistered) owned by SRG prior to performance of the Services, developed by SRG in performance of the Services, or developed by SRG outside of, or after, performance of the Services, and without limitation includes business names, trade or service marks, any right to have information (including confidential information) kept confidential, patents, patent applications, drawings, discoveries, inventions, improvements, trade secrets, technical data, formulae, databases, know-how, logos, designs, design rights, copyright and similar industrial or intellectual property rights.
- a) **Client** means the entity to which the accompanying tender, quotation, letter, fax or email is addressed.
- b) **Confidential Information** means all information in relation to a disclosing party, its business, operations, products, processes, customers, suppliers or contractors which is or might reasonably be considered by the disclosing party to be confidential, including all technical data, formulae, specifications, diagrams, plans, drawings, sketches, designs, business plans and reports, business methods and systems, business records, production information, unpublished financial accounts and reports, discount and supply agreements, subcontractor lists, customer lists, except to the extent that such information is lawfully in the public domain.
- c) **Services** means the services described in the accompanying tender, quotation, letter, fax or email.