

QC Laboratories Inc. (QCL)
General Terms and Conditions For Testing and Inspection Services

1. Application; Formation of Contract; These General Terms and Conditions of Sale and Performance of Testing Services (the "Terms and Conditions") shall apply to all acts in respect of the purchase and sale of testing and other services (the "Work") pursuant to any contract (a "Contract") to which these Terms and Conditions are made applicable. The submission by a party ("Customer") of any sample to QCL for testing or similar services shall, upon acceptance of such sample by QCL for such services, constitute an express Contract to which these Terms and Conditions apply. All orders for Work are subject to QCL's approval and acceptance.

2. Modification and Waiver; Other Terms. No provision in these Terms and Conditions may be varied or waived except by a writing specifically describing such variance or waiver signed by an officer of QCL. QCL acceptance or acknowledgement, even if in writing and signed by QCL, of Customer's purchase order or any other document pertaining to the Work shall not be deemed an acceptance of any provision of Customer's purchase order or any other document that conflicts with or adds to these terms and conditions, absent a separate agreement in writing signed by QCL expressly acknowledging and agreeing to such provisions. **IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT TERMS AND CONDITIONS SET FORTH IN ANY ORDER FORM, PURCHASE REQUEST OR CONFIRMATION PROVIDED BY CUSTOMER ADD TO OR CONFLICT WITH THESE TERMS AND CONDITIONS, THESE TERMS AND CONDITIONS SHALL PREVAIL AND GOVERN. QCL'S ACCEPTANCE OF A CONTRACT TO PERFORM WORK IS EXPRESSLY CONDITIONAL ON CUSTOMER'S AGREEMENT AND ASSENT TO THESE TERMS AND CONDITIONS.**

3. Prices for the Work; Payment. Prices quoted by QCL for the work are solely for the performance of the work and do not include freight, insurance, packaging charges, warehousing or storage costs, or any sales, use, excise, customs duties, or other taxes or fees ("Costs"). Unless QCL expressly agrees in writing to pay such Costs, all such Costs are to be paid by Customer. A minimum charge applies to each sample submitted unless a blanket purchase order specifying different pricing has been submitted and accepted. Written and oral quotations are subject to withdrawal by QCL by notice at any time, and, in any event, shall be valid only for thirty - (30) days from the date thereof.

Payment is due in cash as specified in QCL's quotation, proposal or order confirmation and, unless otherwise expressly agreed to in writing by QCL, payment is due in U.S. dollars only. Payment is due within thirty - (30) days of the date of the invoice. If not specified in the QCL quotation invoices will be submitted at the completion of the work or for ongoing work invoices will be submitted for services and tests actually completed during the invoice period. If the Customer, or other causes, beyond QCL's reasonable control delay performance, QCL may submit invoices for the prorated portion of the work accomplished. If Customer causes such delay, Customer shall additionally pay all reasonable warehousing and other expenses and Costs of QCL incident to such delay in completing the work.

Payment shall be due in full within thirty- (30) days of invoice, unless otherwise stated. If payment in full is not made when due, interest shall accrue on the unpaid balance at the lesser of (i) the rate of 1½% per month (18% per annum) or (ii) the maximum rate permitted under applicable law. Customer agrees to pay reasonable attorneys' fees incurred by QCL in the collection of past due invoices and account balances. If the Customer disputes any portion of the invoice the undisputed portion of the invoice must be paid within thirty - (30) days of the date of the invoice. QCL must be advised in writing of amount and reason for the disputed portion of any invoice within forty-five (45) days of the invoice date or the disputed portion of the invoice shall be considered as delinquent and treated as an undisputed past due amount.

If QCL at any time determines in its sole judgment that there are reasonable grounds for insecurity with respect to Customer's payment for the Work or any other obligation of Customer set forth in the Contract or in these Terms and Conditions, QCL may require adequate assurance of due payment or other performance, such as payment in cash or satisfactory security, and until QCL receives such assurance, QCL may suspend any performance for which it has not already received payment.

4. Completion of Work; Limited Warranty. QCL warrants that it will complete the Work in a satisfactory and workmanlike manner consistent with industry standards. QCL will exercise commercially reasonable efforts to complete the Work and provide a report thereon by any date reasonably requested in writing by Customer, but shall not be liable for any delay in the performance of projects or in the delivery or shipment of goods, or for any damages suffered by the client by reason of such delay. QCL's performance of any and all Work is subject to QCL's current facility schedules, governmental priorities, and other government regulations, purchase orders, directions, and restrictions that may be in effect from time to time.

EXCEPT AS EXPLICITLY SET FORTH IN THIS PARAGRAPH 4, QCL MAKES NO OTHER WARRANTY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED.

QCL's warranty shall not apply to any portion of the Work performed by a party other than QCL except to the extent that any such third party has warranted such performance to QCL and is liable to QCL under such warranty.

No employee, agent or other person is authorized to give any warranties on behalf of QCL in addition to or different from those herein given, or to assume for QCL any other liability in connection with the Work except in a writing which is signed by an authorized officer of QCL, which expressly gives such warranties or assumes such liability, and which is made part of the Contract pursuant to paragraphs 1 and 2 above.

5. Customer's Property. Whenever QCL is provided in writing detailed instructions as to the treatment and handling of Customer's property, QCL will exercise commercially reasonable efforts to comply with such instructions. Type of material, tolerances and specifications for processing shall be declared in writing by Customer prior to QCL's commencing any Work or shall be deemed not to have been known by QCL.

Testing services supplied by QCL are generally considered to be destructive. Under special conditions, some testing may be performed without destroying samples. However, by submitting components or samples to QCL, Customer expressly agrees that all material submitted may be destroyed. QCL will not be responsible for any costs or losses resulting from destruction of Customer's property submitted to QCL unless both the written Contract and Customer's property are clearly marked "Do Not Destroy." If the Contract and Customer's property are not so marked, QCL shall have no liability for damage to Customer's property. If the Contract and Customer's property are so marked, QCL's liability for damage to Customer's property is limited to the lesser of (i) the value of Customer's property or (ii) the cost of the Work performed on the damaged property pursuant to the Contract. Under no conditions will QCL be responsible for any additional costs or damages, including consequential damages and indirect costs or losses, resulting from destruction of Customer's property. By submitting property to QCL, Customer acknowledges and agrees to

QC Laboratories Inc. (QCL)
General Terms and Conditions For Testing and Inspection Services

these limitations and acknowledges and agrees that QCL bases its price for the performance of Work on the existence and enforceability of such limitations.

6. Shipping. QCL will at Customer's reasonable request act as a shipping agent for the return of Customer's property after performing the Work. As Customer's agent, QCL will contract for common carrier delivery as requested in writing by Customer. Under no conditions will QCL have any liability for any item so shipped. Insurance will be purchased for common carrier shipping only when requested in writing by Customer and when declared value is indicated, and the failure of QCL to purchase insurance shall not result in any liability on the part of QCL. Customer may be billed directly by commercial carriers for freight and Customer shall make all claims for property damaged in transit directly and solely against such freight carriers.

7. Title; Security Agreement. Title to Customer's property and all risk of loss or damage to such property shall remain with Customer at all times. Customer hereby grants to QCL a security interest in all of Customer's property provided to QCL for testing or other services under the Contract to secure the payment of the purchase price for the Work and other fees or charges due QCL hereunder. Customer will not be entitled to the return of its property, and after such return shall not be entitled to transfer or encumber the property upon which Work is performed, until all sums due and owing to QCL have been paid. Customer shall execute and deliver any financing statements or other documents that QCL reasonably requests for the perfection of QCL's security interest in Customer's property and Customer shall do all other acts necessary for the perfection and preservation of this security interest.

8. Customer's Remedies. The sole and exclusive remedy of Customer and its customers, agents and other affiliates in respect of any claim against QCL based on or relating to any claimed defect in the Work or otherwise relating to the Work, the Contract, or these Terms and Conditions, whether such claim is based upon contract, tort, professional errors or omissions, strict liability or negligence, and whether such claim is for property damage, personal injury, commercial loss or other monetary loss, shall be (i) upon the return, restoration, or replacement by Customer of Customer's property upon which the Work was performed, the re-performance of any defective portion of the Work, or (ii) at QCL option, a refund or credit to Customer in the amount of the price paid for the defective portion of the Work. Customer's remedies hereunder shall only be available if (i) QCL has been paid in full for the Work pursuant to paragraph 3 above; (ii) QCL is notified in detail, in writing, of the claimed defect or other claim within twenty days of Customer's discovery thereof and within ninety days after the completion of the Work; and (iii) QCL is permitted to inspect any and all property with respect to which the Work is claimed to have been defective or to which Customer's claim otherwise relates.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 8, QCL SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE DIRECTLY OR INDIRECTLY ARISING FROM ITS PERFORMANCE OF THE WORK, INCLUDING WITHOUT LIMITATION ANY DAMAGE TO CUSTOMER'S PROPERTY. QCL SHALL IN NO EVENT BE LIABLE FOR ANY LOSS OR DAMAGE ARISING FROM THE USE OF PROPERTY UPON WHICH THE WORK IS PERFORMED OR ANY SIMILAR PROPERTY OR FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER. IN NO EVENT SHALL QCL BE LIABLE FOR ANY DAMAGES ABOVE THE COST OF THE WORK, WHETHER SUCH DAMAGES SHALL ARISE FROM BREACH OF THIS CONTRACT, OR IN TORT, OR OTHERWISE.

9. Cancellations. A purchase order or other Contract for Work once placed with and accepted by QCL can be cancelled, in whole or in part, only with the written consent of QCL. If Customer cancels without QCL consent, Customer shall be liable for the full price of the Work, less any actual third party expenses saved by QCL in not having to perform the Work, as reasonably determined by QCL in its sole discretion.

10. Court and Other Proceedings. The nature of QCL services will, from time to time, require employees of QCL to present the results of QCL findings in depositions, court proceedings or other forums. In such cases, the Customer will be charged, in addition to the agreed upon price for the Work, QCL usual and customary costs and fees for such presentations and the preparation thereof according to QCL's then-current fee schedule. If QCL is subpoenaed by a party other than Customer, the total costs and fees associated with the preparation and testimony will be charged to the Customer, irrespective of whether payment has previously been made on the Work and Customer's file is closed. QCL will at Customer's written request attempt to have these costs and fees reimbursed by the party issuing the subpoena; however, if such party does not reimburse QCL, such costs and fees will be the responsibility of Customer. Customer agrees to pay any such costs and fees, irrespective of whether it is anticipated at the time of the Contract that QCL will be called upon to present the results of its findings in depositions, court proceedings or other forums.

11. Force Majeure. The parties hereto shall be excused from the duty to render timely performance of any obligation hereunder if such inability to perform is caused directly or indirectly by act of God, flood, war, riot, accident, explosion, strikes or labor trouble, act of government, delay or default by subcontractor or supplier of materials or services, the existence of any circumstance making performance commercially impracticable or any other cause beyond the party's reasonable control; provided, however, that the obligation to make payments due under this agreement shall not be excused for any reason, including the foregoing.

12. Waiver of Compliance. Waiver by either party hereto of a breach by the other party of any of the provisions of these terms and conditions shall not be deemed a waiver of future compliance therewith, and such provisions shall remain in full force and effect.

13. Severability. If any provision or remedy herein provided for be invalid under any applicable law, the remaining provisions hereof, including remaining default remedies, shall be given effect in accordance with the intent hereof.

14. Governing Law. This agreement shall be governed by and construed under the laws of the State of Texas.

15. Arbitration. Any controversy or claim arising out of or relating to this agreement, or any breach thereof, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. The location of any arbitration shall be Houston, Texas. Any demand for arbitration by either party hereunder must be delivered in writing to the other party.