

1. GENERAL

- I. All offers made and services provided, by each affiliated company within the Mitra S. K. Limited Group of Companies, hereinafter called "The Company" and all resulting agreements, contracts or other arrangements shall be governed by this "General Terms and Conditions of Service" unless otherwise (i) agreed in writing or (ii) where such terms and conditions are at variance with the regulations governing services performed on behalf of governments, governing bodies, public entity or the mandatory provisions of local law.
- II. The Company offer to provide services to a firm, company, partnership, association, person(s), government agencies or authorities hereinafter called the "Customer"—They will be governed by these General Terms and Conditions.
- III. The Company will be deemed as authorised to deliver Reports and/or Certificates to a third party where so instructed by the Customer or, at its discretion, follows circumstances, trade custom, usage or practice. No other party would be entitled to give instructions, particularly on the scope of the services or the delivery of reports or certificates resulting from the services, unless the Company receives prior written instructions to the contrary from the Customer.

2. PROVISION OF SERVICES

- (1) The Company may provide services of inspection, quality control, quantity surveys, supervision and verification, analytical and testing certification with respect to different commodities and service sectors inter-alia ferrous and non-ferrous commodities, coal and coke, flux materials, environmental measuring and testing, food and water and fertilizers etc.
- (2) The Company shall provide the Services and/or issue reports and certificates with reasonable care, skill and diligence in accordance with specific instructions set out in the Agreement, if any and/or such methods as the Company shall deem suitable on a case-by-case basis having regard for professional standards-and applicable law.
- (3) Reports or Certificates issued for the samples received and tested reflect the Company's opinion on those samples only and do not express any opinion on the lot from which the samples were drawn. Similarly, where sampling features as a related service, and samples taken and finalised for testing, reports and certificates issued shall report the results solely based on the samples received and identified from the sampling and shall not express an opinion on the lot from which the samples were drawn.
- (4) As a witness to any third party Intervention, by the Company, at the request of the Customer, the only responsibility of the Company is to be present at the time of the third party's intervention and to forward the results, or confirms the occurrence, of the intervention. 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.

- (5) Reports or Certificates issued by the Company shall indicate the facts observed by it at the time of its intervention only and restricted to the instructions received or as specified in 2 (2) in the absence of such instructions.
- (6) The Company reserves the right to subcontract the performance of a service in part or whole and/or disclose all information necessary for such performance to the subcontractor, unless otherwise specifically advised by the Customer and agreed by the Company in writing.
- (7) The retention period for samples shall be 3 months or a shorter period, depending on the nature of the sample. At the request of the Customer, samples may be retained for more than 3 months but shall attract a storage charge. If samples are to be returned to the Customer, a fee for handling and freight will be charged to the Customer.

3. OBLIGATION OF THE CUSTOMER

- 1) The Customer shall ensure that all relevant documents, instructions and information sufficient to undertake the duties are furnished at least 48 hours of the commencement of the assignment.
- 2) It is the responsibility of the Customer to ensure in a timely manner that access to the premises and/or working site area, where the services are to be performed, is readily accessible to the Company's representatives without obstacles and interruptions and to ensure permission is granted for full attendance from commencement of the inspection, witnessing of weighing operations and/or sampling.
- 3) It is the responsibility of the Customer to ensure specialist equipment and personnel is made available, if required and necessary for the performance of the service.
- 4) The Customer shall ensure the safety and security of working conditions, sites and installations during the performance of service.
- 5) The Customer shall inform and alert the Company in advance of any known hazards or dangers, associated with the performance of inspection and sampling services including the risk of radiation, toxic noxious or explosive elements or materials, environmental pollution or poisons.
- 6) The Customer shall take all necessary steps to eliminate or remedy any interruptions or obstacles to ensure timely completion of the services by the Company.
- 7) The Company in the interest of health and safety, grants to its employees and subcontractors a "stop work authority" permitting them to stop work and leave the site at their sole discretion if concerns of any nature with respect to their health and safety. No liability shall arise from this exercise of discretion and that payment for time lost shall remain due to the Company.

4. RATES AND PAYMENT

- 1) The Customer shall pay the Company the agreed rates and all applicable taxes. If, however, rates are not agreed at the time the order is placed or contract is negotiated, the Company reserves the right to apply its standard rates.
- 2) Payments to the Company shall be made within 30 days of the date of the invoice or such other period as established in the order or contract and agreed between the Parties. Charges for late payment shall be 1.5% per month shall apply unless established otherwise.
- 3) Under no circumstances whatsoever shall the Customer adjust, retain or defer any payment due to the Company without the express agreement of the Company in writing.
- 4) The Customer shall have no right of set off or retention. Any objections to invoice values must be raised within 30 days of receipt of the invoice. The Company may choose to take legal action in order to recover its payment from the Customer if any dispute is not resolved amicably.
- 5) During the process of carrying out the services, should the Company encounter any unforeseen problems or expenses it shall be entitled to charge the Customer, accordingly to cover the necessary cost incurred to complete the services.
- 6) Should the Company be unable to carry out the services, in part or whole, for reasons beyond its control and/or the Customer's inability to fulfil its obligations as mentioned in clause 3 above, then the Company shall be paid the cost of all non-refundable expenses incurred by it and the amount of the agreed rate proportionate to the services carried out.

5. SUSPENSION AND TERMINATION OF SERVICES

The Company shall be entitled to suspend or terminate its services, without any liability, if the Customer fails to comply with any of its obligations, even after being notified by the Company or in the case of suspension of payment, arrangements with creditors, bankruptcy, insolvency, receivership or cessation of business by the Customer.

6. LIABILITY AND INDEMNIFICATION

(A) Limitation of Liability

- I. For avoidance of doubt the Company does not fulfil the role of an insurer or guarantor in respect to the adequacy, quality, quantity, fitness for purpose or compliance with regulations to which the services provided by the Company may relate.
- II. Customers seeking a guarantee against loss or damage should make their own insurance arrangements as the Company is not liable for any loss or damage suffered by the Customer on the basis of the report issued by the Company.

- III. The Company, its officers, employees, or agents are not liable to the Customer or any third party for any actions taken or not taken by the Customer or third party on the basis of the reports or certificates furnished by the Company, nor for any incorrect results attributed to unclear, erroneous, incomplete, misleading or false information provided to the Company.
- IV. Neither Party whether the Company or Customer shall be liable to the other Party for loss of business, loss of profit or earnings, business downtime or interruption, depletion of goodwill, loss of contract, any other indirect consequential losses, costs, damages or expenses
- V. The total liability of the Company and their respective employees, directors, agents, consultants and subcontractors in respect of any claim for loss or damages arising and established and proven beyond doubt to be attributable to the error or omission of the Company, shall not exceed a total aggregate sum equal to 10 times the amount of the fee paid in respect of specific services, which gives rise to such claim, subject to a maximum of US \$ 10000/- or its equivalent in local currency, provided the company is notified in writing by the customer of its claim thereof, within 90 days of such alleged errors or omissions in the services provided, justifying the claim.

(B) Indemnification:

The Customer 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

- 1) The Customer shall not directly or indirectly entice, encourage or make any kind of offer to the Company's employees or encourage them to leave their employment with the Company
- 2) The Customer shall not use the Company's corporate name or registered marks for advertising purpose without the Company's prior written permission.
- 3) The names, service marks, trademarks or any other intellectual property rights of the Company and its Affiliates shall not be used by the Customer except solely to the extent the Company gives permission to the Customer to do so. For the avoidance of doubt, nothing in the report, certificates or any other written communication shall convey any rights of ownership to the Company's intellectual property.
- 4) Neither the Customer nor the Company shall disclose or use for any purpose whatsoever any confidential information which it may acquire within the scope of performance of the scope of services.

- 5) Reports and certificates are the exclusive property of the Company issued by the Company and are intended for the exclusive use of the Customer. They shall not be modified, published, used for advertising, copied or replicated for distribution to any other persons without the express consent of the Company. The Company shall not be held liable for any error, omission or inaccuracy in any report or certificate to the extent it has in anyway been modified by the Customer or any other party.
- 6) The Company will have a right to use, on an anonymous basis, the data contained in reports and certificates for internal benchmarking purposes.
- 7) No party other than the Customer shall have any rights under or in connection with any agreement between the Company and the Customer. The Company remains solely liable to the Customer only under the law of contracts. There are no third party beneficiaries of these Terms and Conditions which form part of the agreement to provide services to the Customer unless the Customer proposes otherwise and the Company agrees for the same expressly in writing.

8. RESOLUTION OF DISPUTES

- 1) All disputes arising out of or in connection with the services sought/ provided shall be settled amicably.
- 2)
 - A. Where this services are rendered exclusively in India by the Company then the seat of Arbitration will be Kolkata and Indian Arbitration & Conciliation Act 1996 will be applicable.
 - B. In other cases, than clause 8.2(A) mentioned above, the seat of Arbitration will be Singapore with one arbitrator and the governing law shall be applicable of the Country where the services are rendered by the Company. The language of arbitration will be in English
- 3) Should any one or more clauses of these General Terms and Conditions be found to be illegal or unenforceable in any way, it shall not, however, affect or impair the validity and enforceability of the remaining clauses.