



ALFRED H KNIGHT

## TERMS AND CONDITIONS OF BUSINESS Alfred H Knight International Limited

1. Unless otherwise specifically agreed in writing Alfred H Knight International Limited ("the Company") undertakes services in accordance with these Terms and Conditions of Business ("General Conditions") and accordingly all offers or tenders of service are made subject to these General Conditions. All resulting contracts, agreements or other arrangements will in all respects be governed by these General Conditions, except only to the extent that the law of the place where such arrangements or contracts are made or carried out shall preclude any of the General Conditions and in such case such local law shall prevail wherever, but only to the extent that, it is at variance with these General Conditions.
2. The Company is an enterprise engaged in the trade of inspection and testing. As such, it:
  - 2.1. carries out such standard services ("Standard Services") as are referred to in General Condition 6.
  - 2.2. renders special services ("Special Services") as may be agreed by the Company and as referred to in General Condition 7.
  - 2.3. issues reports and/or certificates as referred to in General Condition 8.
3. The Company acts for the persons or bodies from whom the instructions to act have originated ("the Client"). No other party is entitled to give instructions, particularly on the scope of inspection or delivery of report or certificate, unless so authorised by the Client and agreed by the Company. The Company will however be deemed irrevocably authorised to deliver at its discretion the report or the certificate to a third party if following instructions by the Client a promise in this sense had been given to this third party or such a promise implicitly follows from circumstances, trade custom, usage or practice.
4. The Company will provide services in accordance with:
  - 4.1. the Client's specific instructions as notified to and accepted by the Company;
  - 4.2. the terms of the Company's Standard Order Form and/or Standard Specification Sheet if provided to the Client;
  - 4.3. any relevant trade custom, usage or practice; and
  - 4.4. such methods as the Company shall consider appropriate on technical, operational and/or financial grounds.
5. Information and Documentation
  - 5.1. All enquiries and orders for the supply of services must be accompanied by sufficient information specifications and instructions to enable the Company to evaluate and/or perform the services required.
  - 5.2. Documents reflecting engagements contracted between the Client and third parties or third parties' documents received by the Company including but not limited to copies of contracts of sale, letters of credit and bills of lading shall be considered by the Company to be authentic and for information only, without extending or restricting the instructions or obligations accepted by the Company. The Company makes no representation, warranty or guarantee in respect of such documents and it shall have no liability (whether in contract, tort, negligence or otherwise and howsoever arising) for any loss, damage, or expense of whatsoever nature incurred by the Client, or any third party, acting in reliance upon or by virtue of such documents.
6. The Company's Standard Services may include all or any of the following:
  - 6.1. quantitative and/or qualitative inspection;
  - 6.2. inspection of goods, plant, equipment, packing, tanks, containers and means of transport;
  - 6.3. inspection of loading or discharging;
  - 6.4. sampling;
  - 6.5. laboratory analysis or other testing; and
  - 6.6. surveys and audits.

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7. Special Services (which exceed the scope of Standard Services as referred to in General Condition 6) will only be undertaken by the Company by particular arrangement. Special Services are illustratively but not exhaustively:
  - 7.1. qualitative and/or quantitative guarantees;
  - 7.2. tank calibration, meter calibration and meter proving;
  - 7.3. supply of technicians and other personnel;
  - 7.4. pre-shipment inspection under government mandated import or customs schemes;
  - 7.5. supervision of complete industrial project schemes, including engineering review, expediting and progress reporting; and
  - 7.6. advisory services.
8. Reports and Certificates
  - 8.1. Subject to the Client's instructions as accepted by the Company, the Company will issue written reports and certificates made with due care within the limitation of instructions received but the Company is under no obligation to refer to or report upon any facts or circumstances which are outside the specific instructions received.
  - 8.2. Reports or certificates issued following testing or analysis of samples contain the Company's results on those samples only and do not express any opinion upon the bulk from which the samples were drawn. If testing or analysis of the bulk is requested special arrangements must be made in advance with the Company for the inspection and sampling of the bulk.
9. The Client will:
  - 9.1. ensure that instructions to the Company or changes to those instructions and sufficient information are given in due time and in writing in the English language to enable the required services to be performed effectively;
  - 9.2. procure all necessary access for the Company's representatives to enable the required services to be performed effectively;
  - 9.3. supply, if required, any special equipment and personnel necessary for the performance of the required services;
  - 9.4. 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 requested or not;
  - 9.5. take all necessary steps to eliminate or remedy any obstruction to or interruptions in the performance of the required services;
  - 9.6. inform the Company in writing in advance of any known hazards or dangers, actual or potential, associated with any order or samples or testing including, for example, but not restricted to, presence or risk of radiation, toxic or noxious or explosive elements or materials, environmental pollution or poisons; and
  - 9.7. fully exercise all its rights and discharge all its liabilities under any related contract of sale whether or not a report or certificate has been issued by the Company

failing which the Company shall be under no obligation to the Client.
10. Unless the Client specifically, in writing, instructs otherwise, the Company shall be entitled at its discretion to delegate the performance of the whole or any part of the services contracted for with the Client to any agent or subcontractor.
11. If the requirements of the Client necessitate the analysis of samples by the Client's or by any third party's laboratory, the Company will pass on the result of the analysis but without responsibility for its accuracy. Likewise where the Company is only able to witness an analysis by the Client's or by any third party's laboratory the Company will provide confirmation that the sample has been analysed but will not otherwise be responsible for the accuracy of any analysis or results.

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12. If the sample or the service is or is potentially the subject of legal proceedings this fact must be notified to the Company in writing before the work is carried out. If that fact is not disclosed to the Company at that stage the Company shall not necessarily be obliged or prepared to provide expert testimony.
13. Any samples used by the Company for any tests will be retained by the Company for a period of 6 (six) months after the date of the tests and thereafter disposed of unless the Client instructs otherwise. If the Client requires the sample to be returned then the Company reserves the right to make a charge for this service. The Company will charge an amount (to be determined by the Company at its absolute discretion) for the storage of samples beyond 6 (six) months.
14. The Company's Liabilities and exclusions:
  - 14.1. The Company undertakes to exercise due care and skill in the performance of its services.
  - 14.2. The liability of the Company in respect of any claims for loss, damage or expense of whatsoever nature and howsoever arising including, but not limited to, in respect of any breach of contract, tort, negligence or otherwise shall in no circumstances exceed a maximum aggregate sum equal to 8 (eight) times the amount of the fee or commission payable in respect of the specific service giving rise to the liability of the Company under the particular contract with the Company provided however that the Company shall have no liability in respect of any claims for loss of profit, loss of future business and/or loss of production and/or cancellation of contracts entered into by the Client and/or any indirect or consequential loss whether for breach of contract, tort, negligence or otherwise. Where the fees or commission payable relate to a number of services and a claim arises in respect of one of those services the fee or commission shall be apportioned for the purposes of this paragraph by reference to the estimated time involved in the performance of each service.
  - 14.3. Notwithstanding any other provisions, nothing shall limit or exclude the Company's liability in respect of death or personal injury caused by its negligence or the negligence of its officers, employees, agents or subcontractors, or in respect of fraud or fraudulent misrepresentation, or otherwise if and to the extent that such liability cannot be limited or excluded by applicable law.
15. The Client shall guarantee, hold harmless and indemnify the Company against all claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance of any services to the extent that the aggregate of any such claims relating to any one service exceed the limit mentioned in General Condition 14.
16. Every officer, employee, agent or subcontractor of the Company shall have the benefit of the limitation of liability and the indemnity contained in these General Conditions and so far as relates to such limitations any contract entered into by the Company is entered into not only on its own behalf but also as agent and trustee for every such person as aforesaid.
17. In the event that any unforeseen problems or expenditure arise in the course of carrying out any of the contracted services the Company shall be entitled to make additional charges to cover additional time and cost necessarily incurred to complete the service.
18. Payment
  - 18.1. The Client will punctually pay not later than 30 (thirty) days after the relevant invoice date or within such other period as may have been agreed in writing by the Company all proper charges rendered by the Company failing which, without limiting the Company's other rights and remedies, the Company reserves the right to charge interest at the rate of 3.0 (three) per cent per annum above LIBOR from time to time from the date the invoice becomes overdue until payment of that overdue amount and the Company shall be entitled to suspend all further performance of its services forthwith and without liability.
  - 18.2. The Client shall not be entitled to retain or defer payment of any sums due to the Company on account of any dispute, cross claim or set-off which it may allege against the Company.
  - 18.3. In the event of any suspension of payment arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by the Client the Company shall be entitled to suspend all further performance of its services forthwith and without liability.

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19. In the event of the Company being prevented by reason of any cause whatsoever outside the Company's control from performing or completing any service for which an order has been given or an agreement made, the Client will pay to the Company:
- 19.1. the amount of all abortive expenditure actually made or incurred; and
  - 19.2. a proportion of the agreed fee or commission equal to the proportion (if any) of the service actually carried out;
- and the Company shall be relieved of all responsibility whatsoever for the partial or total non-performance of the required service.
20. The Company shall be discharged from all liability to the Client for all claims for loss, damage or expense unless a suit is brought within 18 (eighteen) months after the date of the certificate or report by the Company of the service which gives rise to the claim or in the event of any alleged non-performance within 3 (three) months of the date when such service should have been completed.
21. All results and data contained in an e-mail or Fax are valid only when supported by the original document on the Company's file.
22. Intellectual property rights:
- 22.1 Any use by the Client, its affiliated companies or subsidiaries of the name of the Company or any of the Company's trademarks or brand names for any reason must be prior agreed in writing by the Company. Any other use of the Company's trademarks or brand names is strictly prohibited and the Company reserves the right to terminate its services immediately as a result of any such unauthorised use.
  - 22.2 Any intellectual property rights in any reports or certificates issued by the Company shall belong to the Company. The Client shall have the right to use such reports or certificates (or any part of such reports or certificates including any graphs, charts, photographs or any other material therein) only for the purposes of the services contracted for with the Client.
23. These General Conditions are governed by the laws of England and Wales and are subject to the exclusive jurisdiction of the English courts.

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