

Curtis & Tompkins, Ltd.
Analytical Laboratory
Standard Terms and Conditions

ACCEPTANCE. Curtis & Tompkins, Ltd., (hereafter referred to as "C&T") offers and will accept orders for services (as defined herein) only under the following Standard Terms and Conditions (the "Terms"). These Terms shall not apply if C&T and the Customer shall have executed a separate agreement in writing. If specific Terms are not incorporated in the separate agreement those Terms will apply to the Customer. No modifications to the Terms shall be valid and binding unless in writing and signed by an authorized representative of C&T. Customer's order for services shall be subject to the Terms and the Terms shall be binding upon receipt of samples to C&T. Either party may terminate this agreement at any time by giving written notice of such termination to the other party. Upon termination the customer is subject to payment for all services rendered and expenses incurred up to date in accordance with the applicable Price Schedule.

INSURANCE. C&T maintains insurance coverage with minimum limits as follows: (a) Comprehensive General Liability- \$1,000,000 each occurrence \$2,000,000 annual aggregate; (b) Comprehensive Automotive Liability Bodily Injury and Property Damage- \$1,000,000 each occurrence. (c) Workman's Compensation- \$500,000 each occurrence and \$500,000 each employee; C&T and Customer agree to furnish the other, upon request, certificates attesting to the existence of insurance coverage.

INDEPENDENT CONTRACTOR. C&T's relationship with Customer under this Agreement shall be that of an independent contractor. Nothing in this Agreement shall be construed to designate C&T, or any of its employees or subcontractors, as employees, joint venturers or partners of Customer.

SUBCONTRACTING. C&T shall have the right to subcontract any and all services, duties, and obligations hereunder, in whole or in part with the consent of the Customer in a timely response which shall not be unreasonably refused. Subcontractor shall be bound by the same Terms of performance as C&T.

BILLING. All fees are charged or billed directly to the Customer. The billing of a third party will not be accepted without a statement, signed by the third party, which acknowledges and accepts payment responsibility.

PAYMENT. Payment in advance is required for all Customers except those whose credit has been established with C&T. Customers with C&T approved credit, terms are Net 30 days, after which time a 1-1/2% per month late charge is added to all unpaid balances. Failure of the Customer to pay according to Terms gives C&T the right to withhold delivery of future data until all past due invoices have been settled. Customer shall pay all costs and expenses incident to the collection of past due amounts, including reasonable attorney's fees. No retainage of fees by the customer is allowed without the consent of C&T.

MODIFICATIONS. If the sample received is of unknown character than in the original quote, or if due to the composition of the sample the original procedure specified is not practicable or likely to produce reliable results, Customer will be promptly notified. Modified procedures will be suggested and C&T may quote new prices for such modifications. Upon agreement of such modification, the original quote shall be deemed amended and the samples in question shall be deemed to have been received.

TIME OF PERFORMANCE. C&T will use its best efforts to comply with storage, processing and analytical time limits requested by the Customer. Unless specifically agreed to in writing between C&T and Customer, the time performance of any testing or other services performed by C&T under this agreement is not guaranteed and C&T shall have no liability for failure to perform such services within the time requested. Quick turnaround times are available at a premium cost which will be defined in the quote, providing C&T workload availability.

LIMITATION OF DAMAGES. C&T is not an insurer of services rendered and the payments mentioned are based solely on the value of the services provided pursuant to this agreement. C&T's liability to the Customer and the Customer's exclusive remedy for any cause of action alleged against C&T, whether based in contract, tort, or otherwise, shall be limited solely to the amount paid by the Customer for the services performed. In no event shall C&T be liable for incidental or consequential damages including, without limitation, business interruption, loss of use, or loss of profits incurred by the Customer, its subsidiaries, affiliates, successors or assigns, arising out of or related to this agreement or the performance of services hereunder.

WARRANTY. C&T makes no warranty or representation, express or implied, or guarantee of results from the performance of services pursuant to this Agreement. Any information, recommendation, interpretation, or opinion by C&T is based upon inferences and assumptions which are subject to error, and with respect to which analysis may differ. Accordingly, C&T does not assume any liability with respect to the use of, or for damages resulting from the use of, any information, data, test results, analysis, apparatus, method, or process disclosed by C&T. C&T makes no presentation or warranty of any kind, including but not limited to, the warranties of fitness for a particular purpose or merchantability, nor are any such warranties to be implied with respect to the data or service furnished. C&T assumes no responsibility with respect to Customer's use thereof.

LIMITATION OF ACTION. No action, regardless of form, arising out of or brought in connection with any services provided under this Agreement may be brought by the Customer more than one year after the performance of said services by C&T. It is expressly agreed that C&T shall have no liability to Customer unless that liability arises out of the willful misconduct or gross negligence of C&T or its duly authorized employees.

CONFIDENTIALITY. Data and the sample materials provided by Customer or at Customer's request and the result obtained by C&T shall be held in confidence (unless such information is generally available to the public or is in the public domain or Customer has failed to pay C&T for all services rendered or is otherwise in breach of this Agreement) subject to any disclosure required by law or legal process. C&T's reports and the data and information provided therein are for the exclusive use and benefit of Customer and Customer agrees there shall be no third party beneficiary of such reports, data, or information. Customer will not disclose to any third party any information concerning C&T's technical information, software programs, or other formulations.

SEVERABILITY. The provisions of this Agreement shall be severable, and if any clause, sentence, paragraph, provision or other part hereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, which remainder shall continue in full force and effect.

WAIVER. No waiver by either party of any breach, default or violation of any term, warranty, representation, agreement, covenant, condition or provision hereof shall constitute a waiver of any subsequent breach, default or violation of the same or any other term, warranty, representation, agreement, covenant, condition or provision hereof. All waivers must be in writing.

FORCE MAJEURE. Obligations of either party under this Agreement shall be suspended, and such party shall not be liable for damages or other remedies while such party is prevented from complying therewith, in whole or in part, due to contingencies beyond its reasonable control, including, but not limited to, strikes, riots, war, fire, act of God, injunction, compliance with any law, regulation or order, whether valid or invalid, of the United States of America or any other governmental body or any instrumentality, matrix interference or unknown highly contaminated samples that impact instrument operations thereof, whether now existing or hereafter created, inability to secure materials or obtain necessary permits, provided, however, the party so prevented from complying with its obligations hereunder shall promptly notify the other party thereof.

LITIGATION. All costs associated with compliance to any subpoena for documents, for testimony in court of law, or for any other purpose relating to work performed by C&T, in connection with work performed for the Customer, shall be paid by the Customer. Such costs shall include, but are not limited to, hourly charges for persons involved in responding to subpoenas, travel and accommodations, mileage, attorney's preparation of testifier and advice of counsel in connection with response to subpoenas, and all other expenses deemed reasonable and associated with said litigation.

HAZARDOUS WASTE. Unused portions of samples found or suspected to be hazardous according to state or federal guidelines may be returned to the Customer upon completion of the analytical work. The cost of returning the sample may be invoiced to the Customer. The sample portions thereof remain the property of the Customer at all times. All radioactive or dioxin containing samples will be returned to the sampling site or to the Customer at the Customer's expense.

RETENTION OF SAMPLES. All routine samples are retained in our storage facilities for 30 days after report generation unless prior arrangements have been made. Samples may be held longer per Customers request for an additional fee.

RETENTION OF REPORTS. C&T shall retain copies of analytical reports for a period of 5 years after report date, after which such reports may be destroyed or returned to the Customer at Customers expense. If Customer requests additional copies of such analytical reports during the retention period, an additional charge will apply for the preparation and printing of such reports.

COMPLIANCE WITH LAW. In the performance of all services to be provided hereunder, C&T and Customer agree to comply with all applicable Federal, State and local laws and ordinances and all lawful orders, rules and regulations of any constituted authority.

APPLICABLE LAW. The validity, performance and construction of this Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.