

Bureau Veritas Commodities Division General Conditions of Service November 2014

“The Company” is the legal entity with whom the Client is providing instructions.

1. **(a)** Unless otherwise specifically agreed in writing, the Company undertakes services in accordance with these general conditions (hereinafter called "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. **(b)** These General Conditions shall be governed by the law of the Jurisdiction in which the Company is registered. **(c)** The parties (being the Company and the Client collectively), hereby agree that the courts of the Jurisdiction of registration shall have exclusive Jurisdiction to settle any dispute or claim that arises out of or in connection with these General Conditions or the underlying contract or arrangement except that the Company shall have the option to pursue money claims against the Client in any jurisdiction where the client has assets or funds or a place of business.
2. The Company is an enterprise principally engaged in the trade of inspection and testing.

As such, it:

- 2.1. carries out such “standard services” as are referred to in General Condition 6.
- 2.2. renders such “special services” as may be offered on a case by case basis by the Company from time to time and as are listed (non-exhaustively) in general Condition 7.
- 2.3. issues reports and/or certificates as may be relevant to the standard and/or special services.
- 2.4. Carries out forwarding services, dependent on the country of residence of the local entity within Schutter Group that renders the services, under the following conditions; (hereinafter called “Forwarding conditions”).
 - 2.4.1. Germany
German Forwarders Standard Terms and Conditions 2003 also referred to as “ADSp”.
 - 2.4.2 Belgium
Belgian Freight Forwarding Standard Trading Conditions 2005 as published under number 05090237 in the “Annexe au Moniteur Belge”

2.4.3. The Netherlands and other not aforementioned countries

Dutch Forwarding Conditions, deposited by FENEX (Netherlands Association for Forwarding and Logistics) at the Registry of the District Courts at Amsterdam, Arnhem, Breda and Rotterdam on 1st May 2018, with the exclusion of article 11 paragraph 3 (Liability), whereas condition 13.1 of the General Conditions will be applicable.

3. The Company acts for the persons or bodies from whom the instructions to act have originated (herein called "the Client "). No other party is entitled to give instructions, particularly on the scope of inspection or delivery of report or certificate, unless so pre-authorised by the Client and agreed to by the Company.
 - 3.1 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 has 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 accepted and confirmed by the Company;
 - 4.2 any relevant trade custom, usage or practice;
 - 4.3 such methods as the Company shall consider appropriate on technical or operational or cost grounds
5.
 - 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, such as copies of contracts of sale, letters of credit, bills of lading, etc., are (if received by the Company) considered to be for information only, without extending or restricting the mission or obligations accepted by the Company.

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;
 - 6.6 surveys and audits.
7. Special services will only be undertaken by the Company by particular arrangement (at the discretion of the Company on a case by case basis) and may be subject to specific terms and conditions in addition to or in substitution (in whole or part) to those in these General Terms.
- Such special services include illustratively and 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;
 - 7.6 Cargo treatment;
 - 7.6.1 The Company will exercise reasonable care and skill on the basis of the information and samples provided by the Client:
 - identify and recommend the type of additive(s) and the quantity of such additive(s) suitable for the treatment of cargoes as directed by the Client;
 - identify products additives and recommend the proportion of such products additives for blending.
 - 7.6.2 The Company shall not be liable for any delay or failure to supply or deliver the additives in accordance with the Client's instructions, if such delay or failure to deliver is the result events outside the control of Company or of the suppliers.
 - 7.6.3 Client is and remains at all times solely responsible for its decisions as to what additive(s), their quality and their quantities to be supplied, utilized and introduced into cargoes.
 - 7.6.4 The Company shall not be liable for any losses, costs and expenses and/or damages suffered by the Client in the event that (a) the additives ordered by the Client are modified, altered, or otherwise tampered with in any way, or such additives do not have the desired or anticipated results when added to the cargo in question, or (b) the instructions given by Company for the use, mixing and blending or the additives into the cargo have not been followed, or (c) any information given to Company is incorrect, incomplete or inaccurate or the Client is otherwise in breach of its obligations and warranties, or (d) the Client has failed to take reasonable measures available to mitigate any such losses, costs and expenses and/or damages.
 - 7.6.5 The Company shall not be liable for any adverse effects related to the ability or inability of heating, circulation, transfer and mixing of the cargo by tank to tank transfer, or by using the vessel's tanks, heating, pumps and pipeline systems.
 - 7.6.6 Neither party shall be liable to the other for indirect or consequential damages (including but not limited to loss of anticipated profits, delays and demurrage charges, loss of use or business interruption).
 - 7.7 Stock monitoring ;
 - 7.8 Transportable moisture determination;
 - 7.9 Fumigation ;
 - 7.10 Exploration and Mining Services;
 - 7.11 Advisory services
 - 7.12 Whereas the Company provides and/or sells goods (as opposed to services) to the Client (whether combined with or separately from any services), and such goods have been acquired by the Company from a Third Party, the Company gives no express or implied warranty as to the quality of such goods or their fitness for purpose. However, upon written request by the client, the Company will assign (as far as possible), its rights against such third party.
8. Subject to the Client's instructions as accepted by the Company, the Company will issue reports and certificates of inspection which reflect statements of opinion 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.
- 8.1 Reports or certificates issued following testing or analysis of such samples as are submitted to the company for analysis (but not drawn from the bulk by the Company) contain the Company's specific opinion on those samples only but do not express or imply any opinion upon the bulk from which the samples were drawn.

- 9.** The Client will:-
- 9.1 ensure that instructions to the Company and sufficient information are given in due time 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 service and will not rely, in this respect, on the Company's advice whether requested or not; But the Client accepts that the Company and its employees may exercise a "stop work authority" in any circumstances where working conditions are considered by its employee (or other representative of the Company) to be unsafe and contrary to safe working conditions;

Such "Stop Work Notice" may be issued verbally by the Company without notice (subject to being confirmed in writing within 48 working hours). Once issued the Company is discharged from any obligation to continue to provide its contracted services until such working conditions have been fully rectified by the Client to the satisfaction of the Company. During the period of suspension of its services, the Company shall be free of any liability for any additional costs or liabilities incurred or potentially incurred by the Client.

- 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 advance of any known hazards or dangers, actual or potential, associated with any order or samples or testing including, for example, presence or risk of radiation, toxic or noxious or explosive elements or materials, environmental pollution or poisons;
- 9.7 fully exercise all its rights and discharge all its liabilities under any related contract whether or not a report or certificate has been issued by the Company.
- 10.** 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.** All technicians and other personnel supplied by the Company in the performance of any services shall at all times remain employees, agents or sub-contractors (as

the case may be) of the Company. As such, all such persons shall be answerable to and subject to the instructions of the Company at all times. Unless otherwise agreed by the Company, such persons shall not be obliged to follow any instructions of the Client.

- 12.** 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 correct sample has been analysed but will not otherwise be responsible for the accuracy of any analysis or results.
- 13.** The Company undertakes to exercise due care and skill in the performance of its services and accepts responsibility only where such skill and care is not exercised and negligence against the Company is proven.
- 13.1 The liability of the Company in respect of any claims for loss, damage or expense of whatsoever nature and howsoever arising in respect of any breach of contract and/or any failure to exercise due skill and care by the Company shall in no circumstances exceed a total aggregate sum equal to 10 (ten) times the amount of the fee less the cost of additives or supplies furnished to perform nomination in respect of the specific service required under the particular contract with the Company which gives rise to such claims; provided further however that the Company shall have no liability in respect of any claims for indirect or consequential loss including loss of profit and/or loss of future business and/or loss of production and/or cancellation of contracts entered into by the Client. Where the fee relates to a number of services and a claim arises in respect of one of those services the fee shall be apportioned (for the purposes of this paragraph) by reference to the estimated time involved in the performance of each service.
- 13.2 The limit of liability of the Company under the terms of Condition 13.1 may (at the sole discretion of the Company) be increased upon request received by the Company in advance of the performance of the service to such figure as (may then be agreed) upon payment of additional fees equal to an appropriate fraction of the increase in such compensation or as may be agreed upon.
- 13.3 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these General Conditions.

- 13.4 Nothing in these General Conditions limits or excludes the liability of the Company:
- for death or personal injury resulting from negligence; or
 - for any damage or liability incurred by the Client as a result of fraud or fraudulent misrepresentation by the Company; or
 - for any liability which cannot be restricted or excluded by law.
- 13.5 This Condition 13 sets out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of any breach of these General Conditions, any use made by the Client of the services and any representation, statement or tortious act or omission (including negligence) arising in connection with these General Conditions.
- 14 The Client shall guarantee, hold harmless and indemnify the Company and its officers, employees, agents or subcontractors 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 Condition 13.
- 15 Every officer, employee, agent or subcontractor of the Company shall have the benefit of the limitation of compensation 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.
- 16 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.
- 17 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, and without prejudice to any other rights or remedies available to the Company, interest will become due at the rate of 15 (fifteen) per cent per annum from the date of invoice until payment.
- 17.1 All prices quoted and charges due under these General Conditions shall, unless the Company confirms otherwise in writing, be exclusive of any value added or sales tax which shall be charged in addition at the prevailing rate.
- 17.2 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.
- 17.3 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 and all sums payable to the Company shall become immediately due and payable.
18. 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
- 18.1 the amount of all abortive expenditure actually made or incurred,
- 18.2 a proportion of the agreed fee 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.
19. The Company shall be discharged from all liability to the Client for all claims for loss, damage or expense unless proceedings are issued and served on the Company within 6 (six) months after the date of the performance by the Company of the service which gives rise to the claim or in the event of any alleged non-performance within 6 (six) months of the date when such service should have been completed.
20. Without prejudice to any other rights or remedies which it may have, the Company may terminate any or all contracts for the provision of services pursuant to these General Conditions without liability to the Client immediately on giving notice to the Client if:-
- 20.1 the Client commits a material breach of any of the terms of these General Conditions and (if such a breach is remediable) fails to remedy that breach within 30 days of the Client being notified in writing of the breach (and failure to honour the Company's payment terms set out in 17 above shall constitute a material breach); or

- 20.2 an order is made or a resolution is passed for the winding up of the Client, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the Client; or
 - 20.3 an order is made, or documents are filed with a court of competent jurisdiction, for the appointment of an administrator to manage the affairs, business and property of the Client; or
 - 20.4 a receiver is appointed of any of the Client's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Client; or
 - 20.5 The Client makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
 - 20.6 The Client ceases, or threatens to cease, to trade; or
 - 20.7 The Client takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.
- 21.** On termination of any or all contracts for the provision of services whether standard or special for any reason:
- 21.1 the Client shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of services supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt; and
 - 21.2 the accrued rights of the parties as at termination shall not be affected.
- 22.** The Company is neither an insurer nor a guarantor and disclaims all liability in such capacity. Clients seeking a guarantee against loss or damage should obtain appropriate insurance.
- 23.** No alteration, amendment or waiver of any of these General Conditions shall have any effect unless agreed to in writing and signed by an officer of the Company.
- 23.1 Notwithstanding 23, the Client agrees that the Company has the right to amend, delete and add to these Terms and Conditions. The Client further agrees that such amendments, deletions and additions will be effective immediately upon notice being given by posting notice of such changes on the Company's website (or by communicating such notice to the Client by e-mail).
- 24.** If any provision (or part of a provision) of these General Conditions is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 24.1 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 25** Notices given by the Company under these General Conditions shall be in writing, sent for the attention of the person, and to such address or fax number as the client may notify to the Company from time to time and shall be delivered personally, sent by fax or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of pre-paid first class post or recorded delivery, 72 of the Company's business hours from midnight on the date of posting. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.