



GENERAL TERMS AND CONDITIONS OF SERVICES

GMS Testing Laboratory Ltd undertakes to provide services to its customer's subject to the terms and conditions contained herein. The customer agrees that this terms and conditions are important part of this agreement.

1. PROVISION OF SERVICES:

- (a) The laboratory will provide services with reasonable care and skill and in accordance with Client's specific instructions as confirmed by the laboratory or, in the absence of such instructions: -
1. The terms of any standard order form or standard specification sheet of the laboratory; and/or
 2. Any relevant trade custom, usage or practice; and/or
 3. Such methods as the laboratory shall consider appropriate on technical, operational and/or financial grounds.
- (b) Information stated in Reports of Findings is derived from the results of testing procedures carried out in accordance with the instructions of Client, and/or our assessment of such results on the basis of any technical standards, trade custom or practice, or other circumstances which should in our professional opinion be taken into account.
- (c) Reports of Findings issued further to the testing of samples contain the Company's opinion on those samples only and do not express any opinion upon the lot from which the samples were drawn.
- (d) Should Client request that the laboratory witness any third party intervention, Client agrees that the laboratory's sole responsibility is to be present at the time of the third party's intervention and to forward the results, or confirm the occurrence, of the intervention. Client agrees that the laboratory 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.
- (e) Reports of Findings issued by the laboratory will reflect the facts as recorded by it at the time of its intervention only and within the limits of the instructions received or, in the absence of such instructions, within the limits of the alternative parameters applied as provided for in clause 2(a). The Laboratory is under no obligation to refer to, or report upon, any facts or circumstances which are outside the specific instructions received or alternative parameters applied.
- (f) The laboratory may delegate the performance of all or part of the services to an agent or subcontractor and Client authorizes laboratory to disclose all information necessary for such performance to the agent or subcontractor.
- (g) Should laboratory receive documents reflecting engagements contracted between Client and third parties or third party documents, such as copies of sale contracts, letters of credit, bills of lading, etc., they are considered to be for information only, and do not extend or restrict the scope of the services or the obligations accepted by the laboratory.
- (h) Client acknowledges that the laboratory, by providing the services, neither takes the place of Client or any third party, nor releases them from any of their obligations, nor otherwise assumes, abridges, abrogates or undertakes to discharge any duty of Client to any third party or that of any third party to Client.
- (i) All samples shall be retained for a maximum of 2 months or such other shorter time period as the nature of the sample permits and then returned to Client or otherwise disposed of at the laboratory's discretion after which time laboratory shall cease to have any responsibility for such samples. Storage of samples for more than 2 months shall incur a storage charge payable by Client. Client will be billed a handling and freight fee if samples are returned. Special disposal charges will be billed to Client if incurred.

LABORATORY

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DHAKA OFFICE

House#110, Road#06, New D.O.H.S
Mohakhali, Dhaka-1206, Bangladesh
Web address: www.gmstlab.com



3. OBLIGATIONS OF CUSTOMER

The Customer will:

- (a) ensure that sufficient information, instructions and documents are given in due time (and, in any event not later than 48 hours prior to the desired intervention) to enable the required services to be performed;
- (b) procure all necessary access for the laboratory's representatives to the premises where the services are to be performed and take all necessary steps to eliminate or remedy any obstacles to, or interruptions in, the performance of the services;

4. FEES AND PAYMENT

- (a) **Fees not established** between the laboratory and Client at the time the order is placed or a contract is negotiated shall be at the laboratory standard rates (which are subject to change) and all applicable taxes shall be payable by Client.
- (b) Unless a shorter period is established in the invoice, Client will promptly pay not later than 30 days from the relevant invoice date.
- (c) Client shall not be entitled to retain or defer payment of any sums due to the laboratory on account of any dispute, counter claim or set off which it may allege against the laboratory.
- (d) Laboratory may elect to bring action for the collection of unpaid fees in any court having competent jurisdiction.
- (e) Client shall pay all of the Company's collection costs, including attorney's fees and related costs.
- (f) In the event any unforeseen problems or expenses arise in the course of carrying out the services the Company shall endeavour to inform Client and shall be entitled to charge additional fees to cover extra time and cost necessarily incurred to complete the services.
- (g) If the Company is unable to perform all or part of the services for any cause whatsoever outside the Company's control including failure by Client to comply with any of its obligations provided for in clause 3 above the Company shall nevertheless be entitled to payment of:
 - 1. the amount of all non-refundable expenses incurred by the Company; and
 - 2. a proportion of the agreed fee equal to the proportion of the services actually carried out.

5. SUSPENSION OR TERMINATION OF SERVICES

The Company shall be entitled to immediately and without liability either suspend or terminate provision of the services in the event of:

- (a) failure by the Client to comply with any of its obligations hereunder and such failure is not remedied within 10 days that notice of such failure has been notified to Client; or
- (b) any suspension of payment, arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by Client.

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6. Liability and Indemnification

(a) Limitation of Liability:

1. The Laboratory/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.
2. Reports of Findings are issued on the basis of information, documents and/or samples provided by, or on behalf of, Client and solely for the benefit of Client who is responsible for acting as it sees fit on the basis of such Reports of Findings. Neither the Company /laboratory nor any of its officers, employees, agents or subcontractors shall be liable to Client nor any third party for any actions taken or not taken on the basis of such Reports of Findings nor for any incorrect results arising from unclear, erroneous, incomplete, misleading or false information provided to the Company.
3. The Company shall not be liable for any delayed, partial or total non-performance of the services arising directly or indirectly from any event outside the Company's control including failure by Client to comply with any of its obligations hereunder.
4. The Laboratory/Company shall have no liability for any indirect or consequential loss including without limitation loss of profits, loss of business, loss of opportunity, loss of goodwill and cost of product recall. It shall further have no liability for any loss, damage or expense arising from the claims of any third party (including, without limitation, product liability claims) that may be incurred by the Client.
5. In the event of any claim, Client must give written notice to the lab/Company within 30 days of discovery of the facts alleged to justify such claim and, in any case, the Lab/Company shall be discharged from all liability for all claims for loss, damage or expense unless suit is brought within one year from:
 - (i) the date of performance by the Lab/ Company of the service which gives rise to the claim; or
 - (ii) the date when the service should have been completed in the event of any alleged non-performance.

(b) Indemnification: Client 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

(a) If any one or more provisions of these General Conditions are found to be illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(b) During the course of providing the services and for a period of one year thereafter Client shall not directly or indirectly entice, encourage or make any offer to Company's employees to leave their employment with the Company.

(c) Use of the Company's corporate name or registered marks for advertising purposes is not permitted without the Company's prior written authorization.

8. GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION

Unless specifically agreed otherwise, all disputes arising out or in connection with Contractual Relationship(s) hereunder shall be governed by the substantive laws of any rules with respect to conflicts of laws.

In accordance with the said rules. The arbitration shall take place in Bangladesh court and be conducted in the local/English language

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