SOUTHDOWN WELDING INSPECTION LIMITED
UNIT 5 TANSEY GREEN TRADING ESTATE, TANSEY GREEN ROAD, PENSNETT, BRIERLEY HILL, WEST MIDLANDS, DY5 4TL
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Terms & Conditions

1 Interpretations

In these conditions the following expressions shall (unless the context requires) have the following meanings:-

"Client" means the person, firm or company to whom a Quotation is addressed or for whom a Test or any services is carried out.

"Company" means the company named overleaf;
"Contract" means the contract for the supply of Services and/or the carrying out of a Test of which these Conditions form part;
"Price" means the price stated in the Quotation, or otherwise agreed with the client together with all other sums due pursuant to these conditions;
"Quotation" means the Company's quotation, (whether written or oral) of which these Conditions form part;
"Report" means any report, recommendation or the like issued by the Company in respect of the Services;
"Sample" means any material supplied by the Client to form the basis of a Test;
"Services" means the services specified in the Quotation;
"Test" means any testing, analysis, assay or the like specified in a Quotation;
"Test Certificate" means any test certificate, recommendation or the like issued by the Company in respect of a Test.

2 Quotation

2.1 The Quotation constitutes an offer by the Company to provide Services and/or carry out a Test subject to the conditions and is open for acceptance for seven days only from the date thereof unless previously withdrawn by the Company;

2.2 Except in accordance with these Conditions no variation to the Contract will be accepted unless agreed in writing.

2.3 No condition, statement or representation contained in any advertisement or brochure or in any trade or promotional circular or other literature, nor the terms or conditions of any trade association or other body, or which would or might but for this sub-paragraph be implied or incorporated by custom or trade, usage, negotiations, course of dealing or other wise shall be deemed to be incorporated in the Contract and all of the same are hereby expressly excluded from the Contract.

3 Price

The Price is based on information available to the Company at the date of the Quotation. If during the period of the contract there shall be any variation in the cost of materials, labour or otherwise to the Company, the Price may, in the absolute discretion of the Company, be adjusted to take account of such variation.
In addition to the amount specified in the Quotation the following shall be payable if appropriate:
Any applicable value added tax;
All bank charges;
Package, insurance, freight and storage charges incurred on behalf of the Client, whether on the Company's premises or elsewhere, and to include storage charges on the Company's premises, if any sample or materials supplied by the Client are not removed within seven days of the date of notification to the Client that they are ready for collection.
Insurance incurred by the Company, in its absolute discretion, in respect of any property belonging to the Client in the possession of the Company.
The cost of all sub-contractors employed by the Company unless included in the Quotation; and
Any additional costs incurred by the Company in accordance with these Conditions.

4 Payment

The Price shall be paid to the Company in full without any deduction, set-off or counterclaim within thirty days of the date of the Company's invoice and in default of payment within the thirty days the Company may suspend any further Services and/or Tests being carried out for the Client and the amount outstanding from time to time shall bear interest (both before and after any judgement) at the rate of 8% above bank of England base rate from time to time until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
All payments due to the Company shall be payable within the specified time irrespective of whether or not the Client has recovered payment from a third party and, for the avoidance of doubt, but without prejudice to the generality of the foregoing, this includes payments of fees due to the Company acting as experts or as experts witnesses when instructed by solicitors acting for a party to a dispute.

5 Execution of Tests

The test shall be carried out singly unless prior written instructions from the Client are received for replicates or unless the Company considers replicates are necessary or desirable. The Company reserves the right to charge for replicates even if the original result is confirmed.

The Client shall supply as much information as possible about each Sample in order to assist in achieving an efficient service. Where Samples are incorrectly described and the Company is involved in addition work, the Company reserves the right to charge for such additional work.

Unless specific prior instructions in writing are received by the Company the Test shall be carried out on the Sample in the state in which the sample is received. The Company reserves the right to charge for any work required to be carried out to the sample prior to the performance of any Test.

Test results pertain only to the item submitted for testing as sampled by the client unless otherwise stated. Any representations/descriptions whatsoever claimed on this test report are made solely by the clients, are at their request and their risk.

Methods of carrying out the Test shall be at the sole discretion of the Company unless specific prior instruction in writing are received by the Client specifying a particular procedure. Charges for such special procedures will be negotiated between the Company and the Client prior to carrying out the Test.

A general description of the method used in the Test shall be given verbally on request. Where written descriptions of detailed procedures are requested, whether as part of the Test certificate or issued separately, the Company reserves the right to make an additional charge, if the method need in the Test represents the end product of development work carried out at the Company's expense, the method shall only be revealed at the discretion of the Company.

If special standards are used in a Test, they shall be invoiced in addition to the charge of the test itself.

The Company may, at its sole discretion, undertake to give priority in carrying out a particular Test. A surcharge may be imposed by the Company for the carrying out of priority work (Details of these arrangements will be issued by the Company on request).

6 Samples subject of legal proceedings

If the sample is, or is potentially, the subject of legal proceedings, this fact must be notified to the Company in writing before the Test is carried out. If that fact is not disclosed to the Company at that stage, the Company shall not necessarily be prepared to provide expert testimony.

7 Disclaimer/Liability

The Company's total liability (if any) to the Client (excepting always liabilities in respect of personal injury or death), whether in contract, delict, quasi delict or otherwise in respect of any loss, direct or indirect or consequential, or damage (howsoever caused) directly or indirectly arising from any breach of Contract, or from any negligent act or omission of the Company or its servants, agents or contractors or from any breach by the Company or its aforesaids of any duty owed to the Client in connection with the Contract shall be limited to the price.

All Services and/or Tests are undertaken in good faith, to a reasonable standard of care and on a confidential basis. Reports and Test certificates are issued on the basis of information known to the Company at the time of the Services and/or Tests are carried out. Although the Company will use all reasonable endeavours to ensure accuracy the Company's achievements depend, inter alia, on the effective co-operation of the Client, its staff and on the information submitted to the Company. Save as required by law, no representation or warranty, whether express or implied or otherwise as to the accuracy of a Test Certificate or a Report is given by the Company. In consequence, all Reports and Test Certificates are prepared on the bases that:

There is no responsibility to any person or body other than the client,

They are not carried out for any particular purpose and no statement is to be deemed, in any circumstances to be or give rise to a representation, undertaking, warranty or contractual condition unless specifically stated; and

They are deemed solely by the professional analysis undertaken by the Company's staff on each individual Contract and any forecasts by the Company of the results is an estimate only and the Company is entitled to be paid the Price irrespective of the results or conclusions reached.

All time limits, if any, are estimates and no undertaking is given to carry out the Services and/or Test or to despatch any Test Certificate or Report within any period of time.

The Company shall not be responsible for the consequences of any delay in carrying out the Services and/or Test or in delivering the Report and/or Test certificate arising from any strike, lockout, trade dispute, accident, fire, inclement weather, flood, tempest, war or Act of God or any other matter or things outwith its control.

8 Obligations of Client

The client shall not reveal or make available the details on any Test or Test Certificate to any third party without first obtaining the prior written consent of the Company.

The Client shall be bound to inform the Company in writing prior to the carrying out of any Test that sample is of a dangerous or unstable nature and shall indemnify the Company from and against all loss or damage suffered by the Company, including, without prejudice to the generality of the foregoing, all damage to the Company's

property and all claims in respect of injury to or deaths of any of the Company's employees, sub-contractors or agents or of any third party, directly or indirectly arising from or in connection with the failure of the Client to inform the Company of the dangerous or unstable nature of a sample.
The Client shall indemnify from and against all loss or damage suffered or incurred by the Company, whether to or at the instance of the client or its employees or agents or third parties or otherwise directly or indirectly arising from or in connection with the carrying our of the services and/or Test.
Unless otherwise agreed the Client will be responsible for providing a safe system of work for the Company and its employees while providing services and the client shall be responsible for all costs necessarily required in discharging this obligation and shall indemnify the Company, its employees, sub-contractors and agents in respect of all claims, costs, damages and loss suffered as a result of any breach by the client hereof.

9 Risk and Property in relation to Tests

The risk of damage to the Sample shall remain with the Client at all times.
Samples of a stable nature shall be retained for three weeks from the date of their receipt and then destroyed. Samples shall be returned to the Client only if prior instructions in writing in that regard are received by the Company and the Client shall be charged for all costs associated therewith (including carriage).
Where samples are, in the sole opinion of the Company, too bulky or too unstable to allow long storage time, it will be at the absolute discretion of the Company as to the length of time such samples are kept.
All copyright in chart records and other scientific, documentary or primary data produced during any Test and in all Test Certificates shall belong to the remain the property of the Company.

10 Ownership, copyright and patents in relation to Services

Ownership and copyright in the Report and any other reports, results or information established or collated by the Company in the course of the services shall remain with the Company until the Client has discharged all its obligations under the Contract, including payment of the price, whereupon the title, ownership and copyright shall pass to the client unless the Company is forced to part with any results, reports or information of any nature to any body exercising its statutory powers.
The Client hereby warrants that it will not use the report or any other reports, results or information supplied by the Company for the purpose of advertisement or publication to third parties. Any such issue of the report or other reports, results of information is permitted under the Contract only with the prior consent of the Company who shall

have the right to increase the Price where its consents to such advertisement and/or publication.
All inventions arising from the Contract and any application for Letters patent or like protection, whether in the United Kingdom or elsewhere shall be the property of the Client (once all payments due to the Company under contract have been discharged), but the Company shall be free to apply them or any information gained to work outside the specific field in which the development for the client took place.

11 Sub-contracting

The Company shall be entitled, in its absolute discretion, to sub-contract the whole of any part of the services and/or Test.

12 Termination

12. 1 The Client shall not terminate the Contract without the written consent of the Company which may be subject to such terms, as in the Company's absolute discretion, recompense the Company for all loss it may suffer as a result of termination.

12.2 The Company may terminate the Contract and any other contract with the Client forthwith, without prejudice to any other right or remedy available to the Company and without the Company incurring any liability to the Client, in the following circumstances:

1. If the Client shall commit a breach of any terms of the Contract or any other contract with the Company unless such breach is capable of remedy and the Client has failed to comply with a notice requiring remedy within the period specified in the said notice.
2. Without prejudice to the foregoing, if the Client fails to make payment of the Price within the specified time.
3. The Client makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction);
4. An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Client:
5. The client ceases, or threatens to cease, to carry on business; or
6. The Company reasonable apprehends that any of the events mentioned above is about in occur in relation to the Client and notifies the Client accordingly.

12.3 Notwithstanding that the Company terminates the Contract, all other rights existing shall remain in force, including the right to suspend all further services and/or

Tests to be made under the Contract or any other contract with the Client (and in such event the Client shall not be released from any of its obligations to the Company under the Contract or any other contract) and the right for the Company to receive full compensation for its loss under the Contract or any other contract with the Client.

13 Notices

All notices to be served by one party on the other shall be deemed duly delivered or served forty eight hours after posting if emailed, posted by first class or airmail pre-paid post to the address of the other party.

14 Confidentiality

The Inspection Body shall not divulge any confidential customer details, data or other intellectual property external of the Inspection Body to a third party unless authorised by the customer and/or for purposes of a legal investigation. This is in addition to contractual employment obligations. The Inspection Body shall inform the customer, in advance, of any information it intends to place in the public domain. Except for information that the customer makes publicly available, or when agreed between the inspection body and the customer, all other information is considered proprietary information and shall be regarded as confidential.

15 General

In the event of one or more of the provision of these Conditions being held by a competent authority to be invalid, illegal, or unenforceable, in whole or in part, the validity, legality or enforceability of the remaining provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
No waiver by the Company of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.
The construction, validity and performance of the Contract shall be governed by the laws of England.